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MICHAEL RODAK, JR., CLERK

APPENDIX

(Appendices J to Z-2)

IN THE

Supreme Court of the United States

October Term, 1979

No. 79-1348

WORLDWIDE CHURCH OF GOD, INC., ET AL.,

Petitioners,

v.

STATE OF CALIFORNIA, ET AL.,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE
COURT OF APPEAL OF THE STATE OF CALIFORNIA,
SECOND APPELLATE DISTRICT, DIVISION THREE

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Appendix J

Complaint (Filed January 2, 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Case No. .....

[TITLE OMITTED]

Plaintiff complains of defendants, and for a first cause of action against them alleges as follows:

First Cause of Action (for Accounting)

1. This action is brought by and on behalf of the People of the State of California, acting on the relation of the individuals named above.

2. Each of the relators is now and at all times pertinent to this action has been a member of the defendant Worldwide Church of God, Inc.; and each has tithed (i.e., given at least ten percent of his net income each year) to the Church for all or most of that time.

3. Defendants Worldwide Church of God, Inc.; Ambassador College, Inc.; and Ambassador International Cultural Foundation, Inc.; are each California corporations, organized and existing exclusively for charitable, religious and educational purposes. All have their principal offices at the same location in the City of Pasadena, County of Los Angeles; they have many officers and directors in common, and are under common control; and they are part of a single charitable, religious and educational organization

("the Church"). All of their funds, property and assets are derived from charitable contributions, and are held in public trust.

4. Plaintiff is informed and believes, and on that basis alleges, that each of the other defendant corporations is owned or controlled by one or more of the officers or directors of the Church, the College, or the Foundation, including particularly the defendant Stanley R. Rader; and that funds and property contributed to the Church are freely transferred among the Church and the other corporate defendants; and that the unity of record ownership and actual control among the Church and the other corporate defendants, and the course of dealing between them, has been for many years and is now such that for all purposes of this action, it would be unjust and inequitable to recognize any separate existence among them at all. The exact status and constitution of the other corporate defendants, and their precise relationship with the Church, are matters not known to plaintiff at this time, but are peculiarly within the knowledge of the defendants; but plaintiff will ask leave of the Court to amend this Complaint to show their true status and constitution, and the exact nature of their relations with the Church, when the same have been ascertained.

5. All of the individual named defendants are either officers, directors, or full-time employees of the Church or of one or more of the named corporate defendants, and all the acts herein complained of have been done with their knowledge and complicity, and under their supervision.

6. Defendants Herbert W. Armstrong and Stanley R. Rader are and at all times pertinent to this Complaint

have been in full and complete control of the Church and all its affairs. Herbert W. Armstrong is and has been ever since the formation of Worldwide Church of God, Inc., Pastor General of the Church, and Stanley R. Rader is Treasurer and General Counsel of the Worldwide Church of God, Inc. and both men are officers and directors of one or more of the named corporate defendants.

7. Plaintiff is informed and believes, and on that basis alleges, that each of the defendants DOE is, and at all times pertinent to this action has been, either the record owner of a substantial interest in, or a director or officer of, one or more of the corporate defendants, or an agent of the other defendants acting with respect to all the acts herein complained of within the course and scope of said agency. The true names and capacities of the said defendants DOE (whether individual, corporate, associate or otherwise) and the true nature of their relationship with the other defendants, is presently unknown to the plaintiff, but is peculiarly within the knowledge of the individual named defendants. Plaintiff will ask leave of the Court to amend this complaint to show the true names and capacities of the defendants DOE, and the true nature of their relationship, when the same have been ascertained.

8. The Church and its officers, and particularly the defendants Armstrong and Rader, are required by law to account to its members for all funds received, expended, or held by the Church. Notwithstanding this duty to account, and notwithstanding the fact that many of its members have frequently requested an accounting, the defendants have failed and refused, and still fail and refuse, to make any such accounting at all.

9. Plaintiff is informed and believes, and on that basis alleges, that between January 1, 1975 and the present date, the named individual defendants, acting in concert with and under the direction of defendants Armstrong and Rader, have been and are siphoning off the property and assets of the Church, and appropriating them to their own personal use and benefit, on a massive scale, amounting to several million dollars per year. Plaintiff is furthermore informed and believes, and therefore alleges, that said siphoning and misappropriation has resulted and continues to result in substantial fiscal deficits from operations of the Church which would otherwise have an excess of revenues over expenditures.

10. Because the named individual defendants are now, and at all times pertinent to this action have been in full, effective and exclusive control of all the property, assets, records and administrative facilities of the Church; and because they have consistently denied and still presently deny to all members of the Church meaningful access to the records aforesaid, plaintiff has no alternative but to make many of the allegations of this complaint on information and belief. Plaintiff will ask leave of the Court to amend this complaint in all pertinent respects when the particular facts concerning the actions complained of have been ascertained.

Plaintiff complains of defendants, and for a second cause of action against them alleges as follows:—

Second Cause of Action (for Removal of Existing Directors and Appointment of Properly Selected New Directors)

11. Paragraphs 1 through 10 of the First Cause of Action are incorporated by reference into and hereby made a part of this Second Cause of Action.

12. Defendants are required by law to hold regular meetings of the members of the defendant corporations, and to allow the members of said corporations to vote on various matters affecting the governance of the defendant Church, including the election of directors to the boards of directors of said corporations. Each of the defendant corporations is furthermore required to submit certain of its actions to the vote of the Board of Directors before taking such actions, all as provided by law.

13. The defendants have failed and refused, and still fail and refuse to call or hold any elections whatsoever among the members, or to allow the members of the defendant corporations to vote on any matter affecting Church governance of its business or financial affairs whatsoever. Moreover, pl intiff is informed and believes, and therefore alleges, that none of the directors of the aforesaid corporations actually votes on any matters affecting Church governance; but instead merely acquiesces in decisions and instructions made by the defendants Armstrong and Rader.

Plaintiff complains of defendants, and for a third cause of action against them alleges as follows:—

Third Cause of Action (Receiver)

14. Paragraphs 1 through 10 of the First Cause of Action, and Paragraphs 12 and 13 of the Second Cause of Action, are hereby incorporated by reference into and made a part of this Third Cause of Action.

15. Based on limited and sporadic statements issued by defendants to the membership of the Church, plaintiff is informed and believes, and on that basis alleges, that the Church receives approximately $70 million per year in

contributions, and that it has a net worth of approximately $80 million. Most of its net worth is held in the form of real estate.

16. Plaintiff is informed and believes, and on that basis alleges, that between January 1, 1975 and the present date, the Church spent and continues to spend at least $1 million more each year than it receives in contributions and, for that reason, and been forced to liquidate some of its holdings in order to defray its current expenditures. All the excess of expenditures over receipts is attributable to the individual defendants' pilfering of the revenues of the Church and their appropriation of its assets to their own personal use and benefit, which pilfering and appropriation continues to this very day on a massive scale. So long as the individual named defendants, and particularly defendants Herbert W. Armstrong and Stanley R. Rader remain in full, effective and exclusive control of the business affairs of the Church, they alone will continue in the future, as they have in the past, to determine the nature and extent of all its expenditures.

17. Plaintiff is informed and believes, and on that basis alleges: that during the last six months, as part of their program of appropriating the assets of the Church to their own use and in order to facilitate said appropriation, the individual defendants have been liquidating the properties of the Church on a massive scale; and that in Southern California alone, some fifty parcels of property belonging to the Church have been sold in the last six months, many of them at prices well below their market value.

18. Plaintiff is further informed and believes, and on that basis alleges: that one of the largest properties of the

Church is a 1600-acre parcel in Big Sandy, Texas, which includes a college campus and associated buildings, and which is worth $30 million; yet the individual defendants have caused the Church to enter into an agreement to sell the aforementioned parcel to a third party for approximately $10 million; and these defendants have attempted to conceal from the members of the Church the true worth of the Big Sandy property, and have instead published false statements, known by them to be false, to the effect that the property aforesaid is worth only about $8 million. All these statements and activities are part of their effort to convert the assets of the Church into a form in which they may be more easily appropriated to the personal use and benefit of the individual defendants.

18. Plaintiff is further informed and believes, and therefore alleges, that the individual named defendants, in an effort to frustrate discovery of their wrongdoing and to obscure the facts, have caused and are causing the written records of their dealings to be removed from the Pasadena offices of the defendant corporations, and to be shredded and destroyed; and that if said removal and destruction are allowed to continue, it may never be possible to develop a true and complete accounting of the Church finances during the time period complained of.

19. The appointment of a receiver pendente lite is necessary forthwith to prevent the continued appropriation of Church funds and assets to the personal use and benefit of the individual defendants; to halt the imminent and massive selling-off of valuable Church properties at prices well below their market value; and to prevent the further destruction of Church records; and to conduct an independent investigation of claims which the Church may have

against the individual named defendants and others, and thereafter to file and pursue such suits and actions on behalf of the Church as may be appropriate.

Plaintiff complains of defendants, and for a Fourth Cause of Action against them, alleges as follows:

Fourth Cause of Action (Injunctive Relief)

20. Paragraphs 1 through 10 of the First Cause of Action, 12 and 13 of the Second Cause of Action, and 15 through 19 of the Third Cause of Action, are hereby incorporated into and made a part of this Fourth Cause of Action.

21. The receiver will require access to the books and records, and to the administrative facilities, of the Church, in order to discharge his duties, and in order to protect and preserve the assets of the Church pendente lite; but the individual named defendants threaten to deny such access to any person other than themselves, and have demonstrated an intention to remove and destroy said books, records, and facilities, rather than to let any other person see them; and unless enjoined and restrained from doing so by this Court, they will do so, and will not yield up the said assets and records to the receiver.

22. The individual named defendants are engaged in an on-going program of liquidation of Church assets, and have already entered into agreements to sell many of said properties at prices well below their market value; and unless they and those with whom they deal are enjoined and restrained from doing so by this Court, they will sell, transfer, mortgage, and encumber said properties.

WHEREFORE PLAINTIFF PRAYS:

1. For an order requiring defendants to make a full and complete accounting to this Court and to the members of the Church of the affairs of the Worldwide Church of God, Inc., Ambassador College, Inc., Ambassador International Cultural Foundation, Inc., Excelsior Leasing, Inc., Mid-Atlantic Leasing Inc., Wilshire Travel, Inc., Environmental Plastics, Inc., Gateway Publishing, Inc., Worldwide Advertising, Inc., and the accounting firm of Rader, Cornwall and Kessler, from at least January 1, 1975, or such earlier date as may be appropriate, through the date of said accounting.

2. For an order requiring an immediate election of new directors for Worldwide Church of God, Inc., Ambassador College, Inc., and Ambassador International Cultural Foundation, Inc., and requiring all of said new directors to be elected by the members of the Church according to the procedures prescribed by law.

3. For an order appointing a temporary receiver *ex parte,* and a Receiver *pendente lite* to take possession, until further order of this court, of all the property of the defendant corporations aforesaid, and of their books and records, and empowering him to take such actions as he deems, in the reasonable exercise of his discretion, appropriate to recover property and assets wrongfully taken from the Church, and to prevent the further dissipation of Church property and assets, said power to include without limitation the power to bring lawsuits in the name of the Church or any of its affiliated organizations, and to retain independent accountants, lawyers, and

other professional assistants to assist him in the prosecution of such lawsuits.

4. For an injunction restraining the named individual defendants, their agents, employees, and all persons acting in concert with them, from interfering in any way with the actions of said receiver, and requiring them furthermore to yield up to said receiver all the books, records, and administrative facilities of said corporate defendants.

5. For an injunction restraining the named individual defendants, their agents, employees, and all persons acting in concert with them, from selling or mortgaging, or asserting ownership in any other way, over the property or assets of any of the corporate defendants, except as the court-appointed receiver may allow.

6. For costs of suit herein.

7. For such other and different or further relief as to this Court may seem just and proper.

Dated: 1/2/79

EVELLE YOUNGER,
Attorney General

LAWRENCE R. TAPPER,
Deputy Attorney General

By:

/s/ LAWRENCE R. TAPPER
Lawrence R. Tapper

HILLEL CHODOS,
HUGH JOHN GIBSON,
RAFAEL CHODOS,
COHN AND LIFLAND,
PETER PEARLMAN,

By:

/s/ HILLEL CHODOS
Hillel Chodos

Attorneys for Relators

Appendix J1

Second Amended Complaint (Filed July 30, 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

No. C 267-607

[TITLE OMITTED]

AS A FIRST CAUSE OF ACTION FOR ACCOUNTING, PLAINTIFF ALLEGES:

1. George Deukmejian is the duly constituted Attorney General of the State of California, and as such is charged with the supervision of all charitable organizations within this state and with the supervision of trustees and fiduciaries who hold or control property in trust for charitable and eleemosynary purposes. This action was originally brought by and on behalf of the People of the State of California on the relation of individuals who had been granted leave to sue by the Attorney General. Its purpose is to correct the abuse of charitable trusts. The six individually designated relators have since withdrawn, and sole responsibility for the action now rests with the Attorney General.

2. Defendant Worldwide Church of God, Inc. (hereinafter the Church) is a California corporation created and existing under the California general nonprofit corporation law. Its principal place of business is in the County of Los Angeles, California. The Church was organized exclusively for charitable and religious purposes, and all of its assets are dedicated irrevocably to those purposes

such as are set forth in its articles of incorporation a copy of which is attached hereto and incorporated herein as Exhibit 1. At all times since its incorporation in 1934 it has been exempted from taxation by the State of California under Revenue and Taxation Code Section 23701(d), and what is now Article XIII, section 4(b) of the California Constitution.

3. Defendant Ambassador College, Inc. (hereinafter the College), is a California corporation created and existing under the California general nonprofit corporation law. Its principal place of business is in the County of Los Angeles, California. The College was organized exclusively for educational (charitable) purposes, and all of its assets are dedicated irrevocably to those purposes such as are set forth in its articles of incorporation, a copy of which is attached hereto and incorporated herein as Exhibit 2. At all times since its incorporation in April 1951 it has been exempted from taxation by the State of California under Revenue and Taxation Code section 23701(d), and what is now Article XIII, section 4(b) of the California Constitution.

4. Defendant Ambassador International Cultural Foundation, Inc. (hereinafter Foundation), is a California corporation created and existing under the California general nonprofit corporation law. Its principal place of business is in the County of Los Angeles, California. The Foundation was organized exclusively for cultural (charitable) purposes, and all of its assets are dedicated irrevocably to those purposes, such as are set forth in its articles of incorporation, a copy of which is attached hereto and

incorporated herein as Exhibit 3. At all times since its incorporation in March 1975 the Foundation has been exempted from taxation by the State of California under Revenue and Taxation Code section 23701(d), and what is now Article XIII, section 4(b) of the California Constitution.

5. By reason of the exemption from tax of the property of the Church and the College and the Foundation, as above alleged; and also by reason of the fact that all donations and contributions to the Church, the College and the Foundation have been deductible from income by the donors and contributors for purposes of computing their federal and state income taxes; plaintiff is informed and believes, and therefore alleges, that the Church, the College and the Foundation have enjoyed substantial public subsidies amounting over the last ten years to more than $150,000,000.

6. Defendants Stanley R. Rader, Herbert W. Armstrong, Ralph Helge, Henry Cornwall, Osamu Gotoh, Robert Kuhn, Raymond L. Wright, and Does 1 through 50 are and at all relevant times have been either officers, directors, or full-time employees of one or more of the above-named charitable entities (hereinafter referred to collectively as the Church, the College and the Foundation) or one or more of the following named for-profit defendants, or both. All of the acts herein complained of have been done with their knowledge and complicity, and under their supervision. In addition, each individual defendant is legally responsible for the act and omissions of his co-trustees.

7. Plaintiff is informed and believes, and on that basis alleges, that defendants Worldwide Advertising, Inc. and Gateway Publishing, Inc. are California corporations; that Does 51 through 100 are corporations, partnerships or other business entities; that Environmental Plastics, Inc. is a Texas corporation qualified to do business in California; that Rader, Cornwall, Kessler and Palazzo is an accounting firm formed either as a California professional corporation or a partnership; that Mid-Atlantic Leasing is a corporation or partnership; that Excelsior Leasing is a Pennsylvania corporation qualified to do business in California; that the above are hereinafter referred to collectively as the for-profit defendants. Plaintiff is informed and believes, and on that basis alleges, that each of the for-profit defendants is owned or controlled by one or more of the officers or directors of the Church, the College or the Foundation, including particularly the defendant Stanley R. Rader; that funds and property contributed to the charitable entities are freely transferred among them and the for-profit defendants; that financial and business records of the charitable entities have been and continue to be in the custody and possession of the for-profit defendants; and that the unity of record ownership and actual control among the charitable entities and the for-profit defendants, and the course of dealing between them, has been for many years and is now such that for all purposes of this accounting, it would be unjust and inequitable to recognize any separate existence among them at all. The exact status and constitution of the for-profit defendants, and their precise relationship with the charitable entities, are matters not known to plaintiff at this time, but are peculiarly within the knowledge of the defendants; and plaintiff will ask leave of the

Court to amend this Complaint to show their true status and constitution, and the exact nature of their relations with the charitable entities when the same have been ascertained.

8. The true names and capacities of defendants Doe (whether individual, corporate, associate or otherwise) and the true nature of their relationship with the other defendants, is presently unknown to the plaintiff, but is peculiarly within the knowledge of the individual named defendants. Plaintiff will ask leave of the Court to amend this complaint to show the true names and capacities of the defendants Doe, and the true name of their relationship, when the same have been ascertained.

9. Defendants Herbert W. Armstrong and Stanley R. Rader are and all times pertinent to this Complaint have been in full and complete control of the Church, the College, the Foundation, and all of their affairs. Herbert W. Armstrong is and has been Pastor General of the Church ever since its formation, and has been an officer and director of the College and Foundation as well as the Church at all times since their formation. Defendant Stanley R. Rader has acted as general counsel and chief financial adviser of the three entities for the past fifteen years, and for the past four years has acted and is presently acting in at least the following capacities: as director, executive vice-president, executive director, vice-president for financial affairs, secretary-treasurer and general counsel.

10. The Church, the College and the Foundation, as well as the individual named defendants (including Does 1-50), hold and are responsible for the assets of the three charitable entities, as trustees, subject to supervision by the Attorney General and ultimately by this court. The ultimate beneficiary in each instance is the public which benefits generally from all charitable endeavors. None of the defendants has or may legally have any proprietary interest in the assets and properties of the Church, the College or the Foundation, nor in their books and records.

11. The Church, the College, the Foundation and the individual named defendants as their officers and directors are required by law to account to the public and this court for all funds received, expended, or held by the three entities. Notwithstanding this duty to account, and repeated requests by plaintiff and members of the Church, these defendants have failed and refused, and still fail and refuse, to make any such accounting at all.

12. The need for an accounting by defendants in this case is particularly acute for each of the following reasons:

(a) Plaintiff is informed and believes, and on that basis alleges, that for a period exceeding ten years the individual and for-profit defendants (including Does 1-100), acting in concert with and under the direction of defendants Armstrong and Rader, have been and are siphoning off and diverting to their own use and benefit assets and properties of the Church, the College and the Foundation, on a massive scale increasing in the last several years to millions of dollars per year, and causing substantial fiscal deficits in their operation.

(b) Although much of the funding for the Church, the College and the Foundation is generated through contributions and other payments and tax subsidies

provided by the public as a whole, a major source of funds for the Church has come from tithing of its members. As Pastor General of the Worldwide Church of God, and as the self-proclaimed Ambassador of God on earth, Herbert W. Armstrong has directed all members of the Church to contribute the first ten percent (10%) of their gross income. Failure to do so, according to Armstrong's published disseminations to the members, is ". . . STEALING from GOD . . . and is SIN, which will cost you your SALVATION!" By reason of such representations and exhortations, a special fiduciary relationship has been created in which Mr. Armstrong, Mr. Rader and the other individual defendants owe the highest duty of accountability, not merely to the general public which is interested in preventing fraud, but also the members and former members who have not only given their money but have also placed their trust in the defendants to use it strictly for God's Work.

(c) In the solicitation of funds, defendant Armstrong has not always been candid. From time to time throughout the past ten years the Church has sent out special and urgent requests for contributions to be made at great personal sacrifices to the donors. Attached hereto and incorporated herein as Exhibit 4 is one such request dated March 30, 1970. The letter speaks of a "tight money situation" requiring cutbacks in Church salaries, publications and operating expenses in all departments of the Work"; it states that "God's Work" needs "IMMEDIATE CASH"; and on the suggestion of ". . . Mr. Rader, our legal counsel and financial adviser," members are asked to borrow whatever they can, so long as they do not lower the

income for the "Work" through the rest of the year. The true nature of the alleged fiscal emergency is exemplified by two purchase orders attached hereto and incorporated herein as Exhibit 5. Mr. Armstrong's letter of March 30, 1970, failed to disclose, among other pertinent facts, the purchase for his Pasadena residence of a $6,090.00 crystal candelabra on January 2, 1970, and French porcelain vases for $2.079.00 on March 31, 1970.

(d) In addition to the first 10% tithe (for God), and a second 10% tithe (to provide for the member's expenses at the annual Festivals), there is a third tithe imposed by the Church on its members consisting of ten percent (10%) of their gross income every third year. Throughout the past ten years this contribution has been expressly solicited as a special fund for widows and orphans. A trust has been imposed on these funds which requires that they be used only for such purposes. Plaintiff is informed and believes and thereupon alleges that an accounting has never been rendered of the receipt and disposition of these funds, and that they have been diverted to purposes other than those for which they were solicited and donated.

13. Because the named individual defendants are now, and at all times pertinent to this action have been in full, effective and exclusive control of all the property, assets, records and administrative facilities of the Church, the College and the Foundation; and because they have consistently denied and still presently deny meaningful access to such records by the Attorney General of the State of California, plaintiff has no alternative but to make many of the allegations of this complaint on information and

belief. Plaintiff will ask leave of the Court to amend this complaint in all pertinent respects when the particular facts concerning the actions complained of have been ascertained.

As a Second Cause of Action for Removal of Individual Defendants as Trustees, and for Injunction, Plaintiff Alleges:

14. Paragraphs 1 through 13 of the First Cause of Action are incorporated by reference into and hereby made a part of this Second Cause of Action.

15. Plaintiff is informed and believes and thereupon alleges that defendant Herbert W. Armstrong is 86 years of age; that he has suffered a heart attack; that he no longer resides in California; and that he is not in daily control of the operations of the Church, the College or the Foundation. The exact nature and extent of his involvement and participation in the diversion of charitable funds hereinabove alleged, either at the present time or in the past, is currently unknown to plaintiff, but is peculiarly within the knowledge of the defendant Armstrong and the other defendants. Plaintiff will ask leave to amend his complaint to show the true facts when the same have been ascertained.

16. Plaintiff is further informed and believes, and thereupon alleges, that for all practical purposes, the financial affairs of the Church, the College and Foundation are now and have for some time been controlled by the defendants Stanley R. Rader, Osamu Gotoh, Ralph J. Helge, Robert Kuhn, Raymond L. Wright, and Henry Cornwall.

17. In addition to his official capacities described above in paragraph 9, Rader has claimed additional power and

authority since January 4, 1979 by reason of a directive purportedly issued on that day by the defendant Armstrong, a copy of which is attached herein and incorporated herein as Exhibit 6.

18. Since this action was filed in January 1979, defendants Rader and Helge have done everything within their power to deny plaintiff access, not only to the books and records of the Church, College and Foundation, but to individuals with knowledge of the operation and financial affairs of said charitable entities.

19. Plaintiff has been endeavoring since January 31, 1979, when this court first so ordered, to examine Rader under oath in deposition concerning his fiduciary relationship to the Church, College and Foundation, and the manner in which he has carried out his responsibilities. Rader failed and refused to appear until further ordered to do so on April 3 and 4, at which time he refused to answer proper questions, and ultimately announced unilaterally that he was leaving the deposition and would not participate any further therein. A copy of the transcript of Rader's deposition is being lodged with this court in connection with plaintiff's Motion to Compel Discovery, and is hereby incorporated by reference and made a part of this complaint.

20. By reason of each and all of their acts and omissions hereinabove related, the defendants Rader, Gotoh, Kuhn, Wright, Cornwall and Helge have failed and refused to comply with the trust which they have assumed; each of them has departed and caused the Church, College and Foundation to depart from the charitable purposes he

and they were bound to serve; and each of said defendants should be removed from all responsibility in connection with the Church, College and Foundation.

21. Further, plaintiff is informed and believes, and therefore alleges that the said defendants have caused the Church, College and Foundation to enter into various purported contracts of employment and other contracts with each of the said trustees, providing for compensation and reimbursement of expenses. Plaintiff alleges that all of said contracts were entered into by the Church, College and Foundation without sufficient consideration and under undue influence, and without proper corporate authority; and alleges that each of said contracts should be cancelled and determined to be null and void. A copy of the Employment Contract of Stanley R. Rader dated July 30, 1976 is attached hereto, marked Exhibit 7, and is incorporated herein by this reference.

22. Plaintiff further alleges that each of the defendants Rader, Gotoh, Kuhn, Wright, Cornwall and Helge should be perpetually enjoined and restrained from serving as officers or directors, or any other capacity, with respect to the Church, College or Foundation or any other California charitable or trust or organization.

As a Third Cause of Action for Orders Requiring Compliance by the Church, College and Foundation With California Law Pertaining to Nonprofit Corporations Organized for Charitable Purposes, or for Other Appropriate Relief, Plaintiff Alleges:

23. Paragraphs 1 through 13 of the First Cause of Action, and paragraphs 15 through 22 of the Second Cause

of Action, are hereby incorporated by reference into and hereby made a part of this Third Cause of Action.

24. By virtue of the facts hereinabove alleged, the defendant charitable entities have claimed the benefits of incorporation as nonprofit corporations organized for charitable purposes under the laws of the State of California which benefits include among others the substantial tax subsidies and exemptions hereinabove referred to; but the said charitable entities have failed in numerous respects to comply their obligations under said laws, as follows:

(a) Claiming that their organization is "hierarchical," the charitable entities have never been subject to the governance of any board of directors, board of trustees or other independent body, authorized and empowered to supervise and preserve charitable funds collected and held by them as required by law;

(b) Notwithstanding that the bylaws adopted by the charitable entities called for a vote of the members on numerous matters of importance, including amendment to the articles and bylaws, disfellowshipment of members and other matters, no member of said charitable entities has ever voted or been permitted or requested to vote on any matter and no vote of the members has ever been held on any subject. In this connection, plaintiff is informed and believes, and thereupon alleges, that although statements were filed with the Secretary of State reflecting a purported vote of the membership on certain amendments to articles of incorporation of the defendant Church, no such vote and no such election was ever held, as the defendants herein are well aware.

(c) The defendants have taken the position that their bylaws may be altered or entirely disregarded whenever it suits their purposes, since said bylaws are "viewed only as guidelines, which are subject to spiritual interpretations (by defendants) and are subordinate to the higher law of God." A copy of the Declaration of defendant Helge, dated January 11, 1979 and filed with this court on or about January 12, 1979, is attached hereto as Exhibit 8 and is hereby incorporated by reference and made a part of this complaint.

(d) Claiming that all decisions of the defendants Armstrong and Rader are "religious" or "spiritual," including all decisions affecting the disposition of charitable trust funds collected and held by the Church, College and Foundation, defendants have taken the position that all of their financial decisions and expenditures, including the disposition of funds for their personal use and benefit, is protected and exempted from review or scrutiny by anyone, including this court, by virtue of the First Amendment; and have thereby claimed and continue to claim that they are entitled to dispose of charitable funds as they please.

25. The defendants Church, College and Foundation should be required by this court to comply with their obligations under the laws of the State of California pertaining to nonprofit corporations organized for charitable purposes in all respects, including among others the following: (a) The Church, College and Foundation should be required to select a board of directors, board of trustees, or other board authorized and empowered to oversee and supervise its financial affairs (as distinguished from its

ecclesiastical or spiritual affairs), in such manner as to provide reasonable assurance that the charitable trust funds collected and held by such charitable entities will be applied solely to the charitable uses to which they were donated, and will not be diverted or misapplied for the personal benefit of any individual, or for any other improper purposes; (b) The Church, College and Foundation should be required to take such steps as may be necessary or appropriate to keep and maintain proper records of their financial and business transactions, and to prepare and cause to be rendered periodic accountings of their financial and business affairs as required by law; (c) The Church, College and the Foundation should be required to take such steps as may be necessary or appropriate to prevent the dissipation of charitable trust funds in the future, and to recover such charitable trust funds as have previously been allowed by them to be dissipated or diverted by improper purposes.

26. If and to the extent the Church, College and Foundation cannot be made to comply with their legal obligations in exchange for obtaining the benefits of their status as charitable California corporations, the court should make such other orders and grant such other relief as may be necessary or appropriate under the circumstances to preserve the charitable funds which have been accumulated by them, and which are presently entrusted to their care and custody.

As a Fourth Cause of Action for Receiver, Plaintiff Alleges:

27. Paragraphs 1 through 13 of the First Cause of Action and Paragraphs 15 through 22 of the Second Cause

of Action and Paragraphs 24 through 26 of the Third Cause of Action, are hereby incorporated by reference into and made a part of this Fourth Cause of Action.

28. Based on limited and sporadic statements issued by defendants to the membership of the charitable entities, plaintiff is informed and believes, and on that basis alleges, that they receive approximately $70 million per year in contributions, and that they have a net worth of approximately $80 million. Most of their net worth is held in the form of real estate.

29. Plaintiff is informed and believes, and on that basis alleges, that between January 1, 1975 and the present date, the charitable entities have spent and continue to spend at least $1 million more each year than they receive in contributions and, for that reason, have been forced to liquidate some of their holdings in order to defray their current expenditures. All the excess of expenditures over receipts is attributable to the individual defendants' pilfering of the revenues of the charitable entities and their misappropriation of charitable assets to their own personal use and benefit, which pilfering and misappropriation continues to this very day on a massive scale. So long as the individual named defendants remain in full, effective and exclusive control of the business affairs of the charitable entities, they alone will continue in the future, as they have in the past, to determine the nature and extent of all their expenditures.

30. Plaintiff is informed and believes, and on that basis alleges that during the last six months, as part of their program of misappropriating the assets of the charitable

entities to their own use and in order to facilitate said misappropriation, the individual defendants have been liquidating the properties of the charitable entities on a massive scale; and that in Southern California alone, over twenty parcels of property belonging to one or more charitable entities have been sold in the last year, many of them at prices well below their market value.

31. Plaintiff is further informed and believes, and on that basis alleges that one of the largest properties of the College is a 1600-acre parcel in Big Sandy, Texas, which is worth substantially in excess of $10.6 million; yet the individual defendants have been attempting to sell the aforementioned parcel to a third party for approximately $10.6 million; and these defendants have attempted to conceal the true worth of the Big Sandy property, and have instead published false statements, known by them to be false, to the effect that the property aforesaid is worth only about $8 million. All these statements and activities are part of their effort to convert the assets of one or more of the charitable entities into a form in which they may be more easily appropriated to the personal use and benefit of the individual defendants. Further, plaintiff is informed and believes that the defendants have established no procedures or safeguards to ensure that the proceeds of sale of the Big Sandy property, which belong to the College and which ought to be used exclusively for charitable and educational purposes, will be applied to that charitable use; but instead, defendants have announced publicly their intention to "get out of the college business," and to divert the proceeds of said sale to the Church and the Foundation, and to uses other than those for which they are entrusted.

32. Plaintiff is further informed and believes, and thereupon alleges, that the individual named defendants, in an effort to frustrate discovery of their wrongdoing and to obscure the facts, have caused and are causing the written records of their dealings to be removed from the Pasadena offices of the defendant corporations, and to be shredded and destroyed; and that if said removal and destruction are allowed to continue, it may never be possible to develop a true and complete accounting of the finances of the charitable entities during the time period complained of.

33. Since this action was commenced on January 2, 1979, and after a receiver was appointed herein, the individual defendants have pursued a course of conduct designed to divert donations, funds and assets of the charitable entities to themselves at Tucson, Arizona and elsewhere; and thereafter to apply said funds for their personal use and benefit in various ways, including the appointment of numerous firms of attorneys to represent their personal interest while ostensively acting as counsel for the charitable entities. In this regard, the individual defendants have purported to effect an amendment to the bylaws since the commencement of this action, granting them alleged indemnification for their legal expenses, not only in connection with the instant action and any other civil action which has been instituted by them or against them in the state and federal courts, but also for any expenses they may incur in defending against criminal charges arising out of crimes or alleged crimes committed by them against the charitable entities (as set forth at pages 11 and 12 of the purported bylaws attached to the Declaration of Helge, Exhibit 8 to this complaint). Plaintiff is

further informed and believes, and thereupon alleges that the defendants have already paid or incurred legal expenses in connection with the present action and related litigation of nearly $1 million, all of which they have paid or intend to pay out of charitable funds properly the property of the charitable entitities herein.

34. The appointment of receiver pendente lite for the charitable entities is necessary forthwith to prevent the continued misappropriation of charitable funds and assets to the personal use and benefit of the individual defendants; to halt the imminent and massive selling-off of valuable properties at prices well below their market value; and to prevent the further destruction of financial and business records of the charitable entities and to conduct an independent investigation of claims which the charitable entities may have against the individual named defendants and others, and thereafter to file and pursue such suits and actions on behalf of the charitable entities as may be appropriate.

As a Fifth Cause of Action for Injunctive Relief Plaintiff Alleges:

35. Paragraphs 1 through 13 of the First Cause of Action, 15 through 22 of the Second Cause of Action, 24 through 26 of the Third Cause of Action, and 28 through 33 of the Fourth Cause of Action are hereby incorporated into and made a part of this Fifth Cause of Action.

36. The Receiver will require access to the books and records, and to the administrative facilities, of the charitable entities in order to discharge his duties, and in order to protect and preserve their assets pendente lite; but the

individual named defendants threaten to deny such access to any person other than themselves, and have demonstrated an intention to remove and destroy said books, records, and facilities, rather than to let any other person see them; and unless enjoined and restrained from doing so by this Court, they will do so, and will not yield up the said assets and records to the receiver.

37. The individual named defendants are engaged in an on-going program of liquidation of charitable assets, and have already entered into agreements to sell many of said properties at prices well below their market value; and unless they and those with whom they deal are enjoined and restrained from doing so by this Court, they will sell, transfer, mortgage, and encumber said properties without providing any safeguards for their preservation and use for the charitable purposes impressed on such assets.

As a Sixth Cause of Action for Accounting Against Defendant Rader, Cornwall, Kessler and Palazzo, Plaintiff Alleges:

37. Paragraphs 1-13 of the First Cause of Action are incorporated by reference into and hereby made a part of this Sixth Cause of Action.

38. Plaintiff is informed and believes and on that basis alleges, that at all times relevant to this complaint, defendants Rader and Cornwall held the beneficial ownership of a majority of, and exercised actual control over, defendant Rader, Cornwall, Kessler and Palazzo, which, until recently was known as Rader, Cornwall and Kessler.

39. Plaintiff is informed and believes and upon that basis alleges that at all times relevant to this complaint

defendant Rader, Cornwall, Kessler and Palazzo acted as the outside accountants for the charitable entities; and in such capacity produced certified financial statements for Worldwide Church of God and Ambassador College, in which they rendered opinions as certified public accountants that such financial statements presented fairly the financial positions of those corporations. Plaintiff is informed and believes and on that basis alleges that as accountants for the charitable entities, defendant Rader, Cornwall, Kessler and Palazzo held a fiduciary position of great trust and confidence vis à vis such charitable entities in the course of which Rader, Cornwall, Kessler and Palazzo rendered financial advice to the management of such charitable entities. In addition plaintiff is informed and believes and on that basis alleges that at all times relevant to this complaint Rader was intimately involved with the management of the charitable entities as personal financial advisor to defendant Herbert W. Armstrong and as attorney for the charitable entities. As a consequence of its assumption of such fiduciary position defendant Rader, Cornwall, Kessler and Palazzo and its partners or shareholders were bound to avoid transactions in which their personal financial interests would conflict with those of the charitable entities.

40. Plaintiff is informed and believes and on that basis alleges that defendants Rader and Cornwall used their positions of trust and confidence with the charitable entities to divert assets of those entities to their benefit, in an amount unknown to plaintiff, by devising, recommending and implementing unfair and fraudulent business transactions between the charitable entities and themselves personally, or between the charitable entities and various of the for-profit defendants in which either or both of them

had ownership interests, or from which they otherwise derived financial benefit, which transactions resulted in personal profit to Rader and/or Cornwall. Plaintiff is informed and believes and on that basis alleges that Rader and Cornwall accomplished the said diversions of charitable assets while acting or purporting to act for and on behalf of defendant Rader, Cornwall, Kessler and Palazzo as partners and/or members thereof.

41. The full nature and extent of the dealings between defendant Rader, Cornwall, Kessler and Palazzo and the charitable entities are not now known to plaintiff, but are peculiarly within the knowledge of defendants. Plaintiff will ask leave of court to amend this complaint to show the exact nature and extent of such dealings when the same have been ascertained.

42. Rader, Cornwall, Kessler and Palazzo are legally required to account to plaintiff for all of the said dealings, and transactions between itself and/or its partners, and the charitable entities, and may be surcharged and held liable for any breaches of trust or diversions of charitable assets resulting from such dealings or transactions.

WHEREFORE PLAINTIFF PRAYS:

1. For an order requiring defendants to make a full and complete accounting to this Court of the affairs of the defendant charitable entities from January 1, 1975 through the date of said accounting; and for a further accounting of the third tithe, and of all transactions between any of the defendant charitable entities and any of the individual defendants or the defendant for-profit entities, from January 1, 1970 through the date of said accounting;

2. For an order removing the defendants Rader, Gotoh, Kuhn, Wright, Cornwall, and Helge from holding any office or employment in or under the defendant charitable entities, and cancelling and nullifying any contracts of employment which may have heretofore been entered between them and said entities and further enjoining and restraining said defendants from holding any office of employment under the said charitable entities in the future, or in or under any California charitable corporation trust or charitable organization;

3. For an order directing the defendants Worldwide Church of God, Ambassador College, Inc., and Ambassador International Cultural Foundation to comply with their obligations under the laws of the State of California pertaining to nonprofit organizations organized for charitable purposes; and in the event of their failure so to comply, for such additional equitable relief as may be necessary, appropriate or requisite in the premises to secure the preservation and proper application of the charitable funds presently in their possession and under their control;

4. For an order appointing a receiver pendente lite to take possession, until further order of this Court, of all the property of the defendant charitable entities aforesaid, and of their books and records, and empowering him to take such actions as he deems, in the reasonable exercise of his discretion, appropriate to recover property and assets wrongfully taken from them, and to prevent the further dissipation of charitable property and assets, said power to include without limitation the power to bring lawsuits in the name of the charitable entities, and to retain independent accountants, lawyers, and other professional assistants to assist him in the prosecution of such lawsuits;

5. For an injunction restraining the named individual defendants, their agents, employees, and all persons acting in concert with them, from interfering in any way with the actions of said receiver, and requiring them furthermore to yield up to said receiver all the books, records, and administrative facilities of said charitable entities;

6. For an injunction restraining the named individual defendants, their agents, employees, and all persons acting in concern with them, from selling or mortgaging, or asserting ownership in any other way, over the property or assets of any of the charitable entities, except as the court-appointed receiver may allow;

7. For costs of suit herein;

8. For such other and different or further relief as to this Court may seem just and proper.

DATED: .....

GEORGE DEUKMEJIAN, *Attorney General*
LAWRENCE R. TAPPER,
JAMES M. CORDI,
WILLIAM S. ABBEY,
LAUREN R. BRAINARD,
Deputy Attorneys General

By .....
JAMES M. CORDI
Deputy Attorney General

Attorneys for Plaintiff.

Appendix K

Ex Parte Temporary Receivership Order (Filed January 2, 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

No. C267607

[TITLE OMITTED]

Upon reading and considering the verified complaint on file herein, and the Ex Parte Application for Temporary Restraining Order, etc. and supporting Memorandum and Declarations; and good cause appearing therefor, IT IS HEREBY ORDERED AS FOLLOWS:

1. The defendants and each of them, are hereby ordered to appear before this Court in Department 85, at 111 North Hill Street, Los Angeles, California 90012, at 9:00 a.m., on January 10, 1979, then and there to show cause why:

(a) The Honorable Steven S. Weisman, a retired Judge of this Court, should not be appointed as receiver *pendente lite,* to take possession, until further order of this Court, of all of the property of defendants Worldwide Church of God, Inc. and its associated corporations (as identified in the complaint on file herein), and of all their books and records; and empowering him to take such actions as he deems, in the reasonable exercise of his discretion, appropriate to recover property or assets wrongfully taken from the Church, and to prevent the further dissipation of Church property and assets, said power to

include without limitation the power to bring lawsuits in the name of the Church or any of its affiliated organizations, and to retain independent accountants, lawyers, and other professional assistants to assist him the prosecution of such lawsuits;

(b) An injunction *pendente lite* should not issue, restraining the defendants, their agents, employees, and all persons acting in concert with them, during the pendency of the action, from interfering in any way with the actions of said receiver, and from withholding from him any of the funds, assets, books, records, or administrative facilities of the corporate defendants; and further enjoining and restraining the individual defendants and each of them, their agents, employees, and all persons acting in concert with them from selling, mortgaging, transferring, disposing, or asserting ownership in any other way, over the property or assets of any of the corporate defendants, except with the written consent of the receiver or with leave of Court.

2. Pending the hearing on said Order to Show Cause, the said Steven S. Weisman is hereby appointed forthwith as a temporary receiver, and upon qualifying and posting a bond pursuant to C.C.P. §567 in the sum of $10,000.00, he is authorized to act pending the hearing on said order to show cause, and to take possession forthwith of all of the funds, assets, and property, and all of the books and records, of the corporate defendants named in the complaint on file herein, viz: Worldwide Church of God, Inc., a California corporation; Ambassador College, Inc. a California corporation; Ambassador International Cultural Foundation, Inc., a California corporation; and empowering said receiver to take such actions pending the hearing

and said order to show cause as he deems, in the reasonable exercise of his discretion, appropriate to preserve and protect the funds and assets of the Church and its associated corporations from dissipation, misappropriation, or other improper diversion; and

3. Pending the hearing on said Order to Show Cause, the defendants and each of them, and their agents, employees, and all persons acting in concert with them, are hereby enjoined and restrained from interfering with or obstructing the receiver in the discharge of his duties, or from withholding from him any of the funds, assets, properties, books, or records of the said corporations; and are further temporarily enjoined and restrained from selling, mortgaging, encumbering, or otherwise disposing of any of the assets of the Church or its associated corporations.

4. No bond need be posted herein by plaintiff.

5. A copy of this order, together with a copy of the *ex parte* application and all supporting papers and of the verified complaint, shall be served on each of the defendants no later than 5:00 p.m. on January 4, 1979.

Dated: 1/2/79

/s/ PACHT
JUDGE OF THE SUPERIOR COURT

Appendix L

Order Approving Actions of Receiver (Filed January 17, 1979)

Law Offices of
MICHAEL J. CLEMENS
Wilshire-Doheny Plaza—Wert Tower
9100 Wilshire Boulevard, Suite 955
Beverly Hills, California 90212
(213) 272-2588 and 276-1169
Attorney for Receiver

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

[TITLE OMITTED]

On reading the verified application of Judge Steven S. Weisman, Received in this proceeding, for an Order approving said Receiver's January 15, 1979 action whereby he stopped and recalled the attempted mailing to approximately sixty-thousand (60,000) members of the Worldwide Church of God of Defendant Herbert W. Armstrong's letter dated January 14, 1979, the Law Offices of Michael J. Clemens, by Michael J. Clemens, Esq., appearing for the Receiver, and the Law Firm of Ervin, Cohen and Jessup, by Allan B. Cooper, Esq., appearing for the Defendants, and the Court having considered the record and files in this matter, the aforesaid Application and the Exhibits attached thereto, and having heard the arguments of counsel and being fully advised in the premises, finds as follows:

1. That those portions of Defendant Herbert W. Armstrong's letter of January 14, 1979 which specifically relate

to the members or prospective donors of the Worldwide Church of God making their monetary donations payable to said Defendant Herbert W. Armstrong personally and directing them to mail said donations to said Defendant Herbert W. Armstrong, c/o General Delivery, Tucson, Arizona, are in direct contravention and violation of the intent, spirit and provisions of the pronounced order of this Court orally issued on January 12, 1979, whereby, *inter alia*, the Defendants, and each of them and their agents and employees acting in concern with them, were enjoined and restrained from interfering with or obstructing the Receiver in the discharge of his duties or from withholding from him any of the assets of the Church.

2. That it is admitted by the Defendants that the Church receives at its World Headquarters, Pasadena, California, donations from contributors which amount to approximately seventy million dollars ($70,000,000.00) each year and that said contributions constitute the major asset of the Church.

3. That said Receiver acted correctly and efficiently in the performance of his duties of protecting and preserving the financial assets of the Church by stopping and recalling the mailing of said letter of Herbert W. Armstrong which called for contributions to be made payable to Herbert W. Armstrong personally and directing them to be mailed to Mr. Herbert W. Armstrong, c/o General Delivery, Tucson, Arizona.

IT IS ORDERED that the application of Receiver is granted and the action of the Receiver, which resulted in the stoppage and the recall of the mailing of Defendant Herbert

W. Armstrong's letter of January 14, 1979, is hereby approved and ratified.

IT IS FURTHER ORDERED that in addition and supplementary to the previous order of this Court, and until there has been a final disposition of the matter by trial and a Judgment of the Trial Court, the Defendants, and each of them and all their agents, employees and all persons acting in concert with them, are hereby enjoined and restrained from diverting, or attempting to divert, the sending of contributions to the Church's World Headquarters in Pasadena, California, and are further restrained and enjoined from soliciting or causing Church contributions to be made payable to anyone other than to the Worldwide Church of God or to be mailed to any location other than to said Worldwide Church of God, either at its World Headquarters in Pasadena, California, or to any of said Church's various branches throughout the world. It is the intent of this Order to ensure that the solicitation of Church contributions and the receipt thereof by the Worldwide Church of God shall continue in the same fiscal manner as existed prior to the ex parte appointment of the Receiver herein.

Dated: January 16, 1979.

/s/ JULIUS M. TITLE
Judge of the Superior Court

Appendix M

Order Appointing Receiver *Pendente Lite* (Filed January 19, 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Case No. C 267 607

[TITLE OMITTED]

The order to show cause re receiver and injunction pendente lite in the above-entitled cause came on for hearing in Department 3 of the above-entitled Court on January 10, 1979, before the undersigned. Plaintiffs and relators were represented by: Lawrence R. Tapper, Deputy Attorney General; Hillel Chodos; Hugh John Gibson; and Rafael Chodos, Esqs.; and defendants were represented by Ervin, Cohen and Jessup and Allan Browne, Esq. After full consideration of the moving and responding papers filed in the matter, and after consideration of additional evidence and argument both oral and documentary presented at the hearing, and after due consideration of all matters presented, the Court makes the following Order:

ORDER

1. *Prior Orders Superseded.* All prior orders regarding the appointment of the receiver, and all prior injunctions and restraining orders, are hereby vacated and dissolved, and superseded by this Order.

2. *Receiver Appointed Pendente Lite.* Steven S. Weisman, a retired Judge of the Superior Court, heretofore

appointed *ex parte* as temporary Receiver, is hereby appointed Receiver pendente lite over all the financial and business affairs of the Worldwide Church of God, Inc., Ambassador College, Inc., and Ambassador International Cultural Foundation, Inc. (hereafter referred to collectively, except where the context otherwise indicates, as "the Church"), to carry out the duties which are specified in this Order; and his original Oath and Bond, filed herein on January 2, 1979, shall continue to stand until further order of Court.

3. *Assetts and Property.* The Receiver is to take possession and control of the Church, including all of its assets, both real and personal, tangible and intangible, of every kind and description, except as is otherwise provided in this Order.

4. *Church to Continue to Function.* In spite of this order of possession, it is further ordered that all the authorized employees of the Church shall be permitted to continue to carry out their duties and to continue all activities and operations of the Church. The Receiver nevertheless shall have the right and power to supervise and monitor all of the business and financial operations and activities of the Church; however, he shall not interfere therein unless he determines, in the sound exercise of his sole discretion, that such interference is necessary to avoid damage or loss to the Church of any kind. And if he does so determine, then he shall have the right to take over management and control of the Church to whatever extent that he, in the sound exercise of his sole discretion, deems necessary.

5. *Assistants.* The Receiver is empowered to hire, employ and retain lawyers, accountants, appraisers, business consultants, computer experts, security guards, secretarial and clerical help, and employees of all sorts to assist him in the discharge of his duties pursuant to this Order; and he is authorized to pay reasonable compensation to all his assistants out of the funds and assets of the Church, subject to the supervision of this Court as hereafter provided.

6. *Records.* The Receiver is to take immediate possession of all books and records of the Church, no matter where or in whose possession said records may be found. These records are to include without limitation journals, ledgers, bank statements, vouchers, invoices, logs, memoranda, computer-readable data, and membership lists. These books and records shall be made available for the use of the employees of the Church in the carrying out of all their duties. They shall also be made available to the representatives of the plaintiffs in this action, for use in preparing for the trial in this action.

7. *Operations.* The Receiver is to supervise and control all the business and financial operations of the Church, including both ordinary day-to-day operations, and extraordinary operations. And while it is ordered that the Receiver shall not interfere with the normal business and financial operations of the Church unless he deems it, in the sound exercise of his sole discretion, to be necessary so to interfere; to that extent he will have the right, and it is hereby ordered, that the Receiver has the right to take over any portion of the operation of the business and financial affairs of the Church that he deems necessary in order to protect the Church and its assets.

8. *Termination of Employees.* Except as is otherwise provided herein with respect to Messrs. Herbert W. Armstrong and Stanley Rader, the Receiver is hereby authorized to suspend or terminate, as he in the sound exercise of his sole discretion determines is necessary, any employee, officer, or agent of the Church (subject to any contractual employment rights the suspended or terminated party may have), and to direct that said employee, officer or agent not be permitted access to any of the grounds or facilities of the Church from and after the date of such termination or suspension.

9. *Messrs. Armstrong and Rader.* Messrs. Armstrong and Rader will be permitted to continue their prior functions as representatives and authorities of the Church unless and until they are, either of them, removed by proper action of the Church pursuant to its By-laws and Articles; or unless they are removed by further order of this Court pursuant to an application on the part of the Receiver. If the Receiver deems it necessary at any time hereafter pending the trial to move the Court to remove either Mr. Armstrong or Mr. Rader or both, the Receiver may file a petition with the Court on notice to the defendants, and the Court will hear the matter and make a determination on that issue. However, subject to their rights under the existing employment contracts which Messrs. Armstrong and Rader have, to the extent that those rights may hereafter be determined by the Court, their compensation for services and their reimbursement for any expenses they may incur in the course of their employment by the Church, shall only be in such amounts as may be determined by the Receiver in his discretion from time to time.

10. *Non-Interference By Receiver in Ecclesiastical Affairs.* It is not the purpose or intention of this Order to allow the Receiver to interfere in any way with the ecclesiastical functions of the Church (as distinguished from the College or the Foundation); and he shall not do so. This Receivership concerns itself exclusively with the financial and business affairs of the Church. The ecclesiastical affairs of the Church shall continue to be controlled and directed by its duly authorized ecclesiastical authorities. Notwithstanding the authority of the Receiver to terminate or suspend persons from employment pursuant to Paragraph 7 above, such termination or suspension shall in no way affect their membership or standing in the Church.

11. *Disputes as to whether a given matter is ecclesiastical.* In the event of any dispute between the Receiver and the ecclesiastical authorities of the Church (as opposed to the College or the Foundation) over whether or not a particular matter is ecclesiastical, the authorities aforesaid are authorized to employ counsel to apply to this Court for a resolution of said dispute; and said counsel may thereafter apply for reasonable compensation from the Church funds pursuant to Court order.

12. *Accounting of Church Affairs.* The Receiver is authorized and instructed to employ, to the extent necessary, accountants, auditors, and attorneys to conduct a thorough audit of the financial and business dealings of the Church; and to compensate said professional assistants out of the Church treasury, subject to supervision by this Court as hereafter provided. Moreover, the Receiver is to review all allegations of malfeasance and neglect concerning the

financial and business affairs of the Church, and to apply to this Court where appropriate for leave to sue on behalf of the Church for suitable relief.

13. *Funds.* It shall not be necessary for the Receiver initially to take possession of, nor to deposit in any special Receiver's account, the funds of the Church now or hereafter received by the Church; but the Receiver shall supervise the deposits and disbursements of the funds by the Church in accordance with the terms of this Order. The funds of the Church shall continue to be handled by its employees in the same manner and with the same bookkeeping, accounting and disbursement procedures as were in effect at the time of the commencement of the *ex parte* receivership, subject to the supervision of the Receiver. But in any event, the Receiver shall have the right, in the sound exercise of his sole discretion and at any time, to take possession and control of the funds of the Church forthwith by notification to the Court and to the defendants, and to deposit them in a special Receiver's account, if he deems it necessary.

14. *Sale of Big Sandy.* Unless the Receiver files a motion with the Court within ten days after the date of this Order opposing the sale of Big Sandy for good cause, that sale shall go forward as a cash sale for $10.6 million, all funds payable directly to the Church.

15. *Supervision by the Court of receivership expenses.* The Court hereby approves and ratifies the transfer by the Receive of $50,000.00 to a special Receiver's account, and the payment therefrom by him of sums for security guard

service, locksmith service, and accountants, and the payment to himself and his attorney of $1000.00 each on account of fees.

As soon as reasonably practicable, the Receiver shall present a petition to this Court outlining the nature and extent of the expenditures he anticipates have been or will be necessary for the discharge of those of his duties herein which are peculiar to this receivership, and he shall seek approval or ratification of this Court to incur and pay such expenditures. Pending the presentation and determination of said petition, the Receiver is authorized to incur and pay such expenses as in his discretion are necessary or expedient to the immediate discharge of his duties.

The Receiver shall not be required to seek advance approval of this Court for expenditures associated with the day-to-day operations of the Church.

16. *Attorneys' Fees to Be Approved by the Court.* Pursuant to representations made to this Court by counsel for defendants on January 10, 1979, and on January 16, 1979, this Court hereby approves the payment on January 9, 1979 of $30,000.00 out of Church funds to Ervin, Cohen and Jessup, and the payment on the same date of $6000.00 out of Church funds to Coombs, Gittler and Hauser, for services allegedly rendered by those law firms to certain of the individual and corporate defendants for whom they have appeared of record herein; provided however that said approval is without prejudice to subsequent review by the Court, upon its own motion or upon the application of an interested party, to review the reasonableness and propriety of said payments, and to direct that all or a portion of said sums be returned to the Church, either by the said law firms, or by one or more of the individual defendants.

Appendix M—Order Appointing Receiver Pendente Lite

The remainder of attorneys' fees received by said firms on January 9, 1979 (i.e. the remaining $20,000.00 paid to Ervin, Cohen and Jessup, and the remaining $4000.00 paid to Coombs, Gittler and Hauser) are to be repaid to the Receiver forthwith.

Except as provided in the foregoing, no further attorney's fees or legal fees shall be paid out of Church funds in connection with this litigation except after proper application to and approval by this Court. This prohibition shall extend to payment of attorney's fees to attorneys representing the plaintiff, the relators, the defendants or any of them, or the Receiver.

INJUNCTION

Until a final disposition of this matter is made, the defendants and each of them, and their agents, employees, and all persons acting in concert with them, are hereby enjoined and restrained from interfering with or obstructing the Receiver in the discharge of his duties, or from withholding from him any of the funds, assets, properties, books, or records of the Church; and are further enjoined and restrained from selling, mortgaging, encumbering, or otherwise disposing of any of the assets of the Church or its associated corporations.

Dated: January 19, 1979

JULIUS M. TITLE
Judge of the Superior Court

Appendix N

Order Dissolving Receivership and Injunctive Order (Filed March 2, 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Case No. C 267 607

[TITLE OMITTED]

The order to show cause re continuation of the receivership in the above-entitled matter came on for hearing in Department 48 of the above-entitled Court on February 21, 1979, at 10:00 A.M., before the undersigned. Plaintiffs and relators were represented by Lawrence Tapper, Hillel Chodos, and Rafael Chodos, Esq. Defendants were represented by Ervin, Cohen and Jessup and Allan Browne, Ellis Horvitz, David Harney and Marshall Morgan, Esqs.

Defendants have moved this Court to dissolve the receivership, asserting that the purposes and objectives of the receivership in examining the financial affairs and protecting the assets can be achieved successfully through the medium of that they will comply. Accordingly, and upon the application of defendants, in order to afford them an opportunity to permit them accomplishment of the said purposes and objectives without a receivership; and in order to preserve and protect the assets of the defendant nonprofit corporations, and to ensure that the Attorney General's financial review shall be completed as soon as is practicable; and after full consideration of the moving and responding papers filed in the matter, and of the additional evidence presented at the hearing; and after argu-

ment and due consideration of all matters presented; the Court hereby orders as follows:

ORDERS

1. *Receivership Dissolved.* The receivership is hereby ordered dissolved, and the activities of the Receiver shall terminate forthwith; but the dissolution shall be stayed until the completion of the Receiver's final accounting. Possession and control of all the property, assets and records of the defendants Worldwide Church of God, Inc., Ambassador College, Inc., and Ambassador International Cultural Foundation, Inc. (hereafter referred to collectively as "defendant nonprofit corporations") is hereby returned to them forthwith, subject however to the exceptions, restrictions and conditions set forth in the following paragraphs.

2. *Jurisdiction Reserved To Settle Receivership Accounts.* The Court reserves jurisdiction to receive and consider the account of the Receiver, Steven S. Weisman, and his petition for discharge and exoneration of his bond, and also to hear and determine all claims for compensation arising out of the institution and maintenance of his receivership, and to order that said claims, insofar as they are allowed by the Court, be paid out of the funds of the defendant nonprofit corporations forthwith. In particular, the Court reserves jurisdiction to hear and determine the claims for compensation of the Receiver himself, and of all the attorneys, accountants, locksmiths, guard services, and other tradesmen and suppliers whose goods and services were used by the Receiver in the performance of his duties; and also to hear and determine, upon proper application to this Court, the claims of the attorneys for the relators for compensation for their legal services rendered up to and including the date of hearing on said account, and for reimbursement of their costs incurred up to that same date.

3. *Jurisdiction Reserved to Reinstitute Receivership.* The Court reserves jurisdiction to reinstitute the receivership, either upon the motion of any party to this litigation, or upon its own motion; and to give any new Receiver such powers and duties as may be necessary or appropriate under the circumstances then obtaining, to preserve and protect the charitable trust funds and assets, and to procure a proper accounting.

4. *Financial Review to Proceed.* The People of the State of California acting by and through the Attorney General are hereby authorized to conduct a thorough audit, or other review as may be appropriate, of the financial affairs of the defendant nonprofit corporations, and shall be entitled to have the full and unqualified cooperation of all the defendants in the conduct of this financial review. Accordingly, the defendant nonprofit corporations shall provide to the Attorney General, his deputies, or to any other representatives designated by him or them in writing (the "auditors") the following resources, facilities and evidences of cooperation, all at the expense of said nonprofit corporations:

(a) *Physical Facilities.* Two adjoining rooms (the "Audit Area") in their data center, adequate in floor space to house a staff of six (6) persons, as well as two (2) copying machines and one (1) computer terminal. These rooms shall be secured as the Attorney General sees fit,

and his staff shall have exclusive and twenty-four-hour access to them. The Attorney General shall have the right to bring records, documents and equipment into the Audit Area, and to remove records, documents and equipment from the Audit Area, as he sees fit.

(b) Computer Access. The defendant nonprofit corporations shall install in the Audit Area forthwith a computer terminal with a direct line to their computer, and shall accord the Attorney General's staff through this terminal full, on-line access to all portions of their computerized data-base and information retrieval systems; and requests initiated from this terminal shall be treated on a first-come-first-served basis along with all other requests initiated from terminals attached to said computer. This access shall be available at all times while the computer is running, so that the Attorney General will be in a position to retrieve from the computer quickly any accounting information regarding their affairs that he wishes. The defendant nonprofit corporations shall furthermore provide the auditors full access to all computer programs, source program listings, operating procedures, record layouts, data-element descriptions, and documentation of the systems in use at their data center, immediately upon the auditors' request.

(c) *Complete Access to All Financial Documents.* All documents in the possession of the Receiver or the auditors employed by the Receiver shall be provided to the Attorney General or his representatives immediately. The Attorney General shall furthermore have the benefit of all work done at the direction of or on behalf of the Receiver by the accounting firm of Peat, Marwick and Mitchell, including their notes, working papers, opinions and conclusions, which are to b disclosed to him or his representatives by said accountants forthwith.

The auditors shall prepare written requests for any financial records or documents of the defendant nonprofit corporations, and any documents of other defendants relating to the affairs of the defendant nonprofit corporations, reasonably required for their audit or financial review. The written requests shall designate the documents requested, the name of the auditor requesting the document, the name of the defendant and the name of the representative of said defendant to whom the request was given, and the date and time of delivery of the request. For purposes of this order, the term "documents" shall include computer-generated and machine-readable records, as well as written documents.

The defendant nonprofit corporations and each of the other defendants shall comply with all such written requests as soon as reasonably possible, but in any event in not more than five working hours from the time any such request is delivered to a defendant or to his or its agent. If delivery of the documents requested cannot be effected for any reason, either in whole or in part, then the defendant to whom the request was directed shall provide a written explanation of the circumstances preventing complete delivery: such explanation shall be signed by said defendant or his or its representative, and shall be delivered to the auditors within five working hours of the receipt of the initial request; and in any event, all document requests shall be filled to the extent possible.

The defendants shall furthermore furnish to the auditors forthwith a complete magnetic tape copy of the financial

data-base of the defendant nonprofit corporations as it was in existence on their computers as of midnight on December 31, 1978. This magnetic tape copy shall be in a form convenient for processing on the Attorney General's own computers.

The auditors shall sign and time-stamp receipts for all documents delivered in response to their requests, or for written excuses for non-delivery, and shall deliver such receipts to the defendants as each case requires. Furthermore, if any documents delivered are required for the day-to-day operation of the defendants' affairs, then the defendants shall so indicate at the time of delivering the document to the auditors; and the auditors shall, within five working hours of receipt of such notification, return the required documents to the defendants.

(d) *Staff Support.* The individual defendants and each of them shall be available to the auditors, either in person or through an agent designated by them in writing within 24 hours of the signing of this order (delivered to the Attorney General) to act for them in this regard, on the Pasadena campus of Ambassador College at all times during business hours.

Each of the corporate defendants shall designate in writing, within twenty-four hours of the signing of this order, agents whose task it will be to receive and assure compliance with the auditors' requests. These agents shall be thoroughly familiar with the financial operations and records of the respective defendants which they represent, and shall furthermore have sufficient authority to act, and shall at all times be deemed to act, for and on behalf of each and every one of the defendants.

The defendants shall designate as many agents as are reasonably necessary to respond to and assure compliance with the auditors' requests; and one agent may represent more than one defendant. The agents designated shall be available in person, at all times during working hours, on the Pasadena campus of Ambassador College.

5. *Confidential Information.* (a) Notwithstanding anything in the preceding paragraph to the contrary, the names of the members of the defendant Worldwide Church of God, Inc. need not be disclosed to the auditors, except insofar as may be necessary to provide financial information requested by the auditors for the performance of their financial review, and then only by prior order of Court.

(b) The Attorney General and his staff shall treat all information received and documents obtained from the defendants during the course of the financial review, as well as all copies of such documents made by the auditors, as confidential, and shall not voluntarily disclose them to any third party except as they may be reasonably required to do so in connection with the conduct of this litigation.

6. *Financial Review to Be At Attorney General's Expense.* Except for the resources and facilities designated in the preceding paragraph, which are to be provided at the expense of the defendants, the Attorney General shall bear all the costs of the financial review. However, the Court reserves jurisdiction to assess the costs of the financial review against any of the defendants, if it should determine that it is appropriate to do so.

7. *Injunction.* (a) The defendants and each of them, and all persons acting in concert with them, are hereby enjoined

and restrained from selling, transferring, conveying, mortgaging, hypothecating, or in any way encumbering the real property of the defendant nonprofit corporations, wherever situated, except after thirty (30) days' written notice to all parties, which notice shall include all documentation and information pertinent to any such transaction proposed.

(b) The defendants and each of them, and all persons acting in concert with them, are hereby enjoined and restrained from transferring any personal property of the defendant nonprofit corporations having a cost or fair market value (whichever is greater) in excess of Five Thousand Dollars ($5000.00), other than in the ordinary course of business, except after thirty (30) days' notice to all parties, which notice shall include all documentation and information pertinent to any such transaction proposed.

(c) The defendants and each of them, and all persons acting in concert with them, are enjoined and restrained from interfering with the financial review, and from obstructing or delaying the production of documents requested by the auditors, in any way whatsoever, and each of them is hereby ordered to comply with each of the orders set forth in paragraphs 1 through 7 above.

(d) The Court imposes no restrictions on expenditures of funds by way of attorney fees or payments to officials and employees of the corporate defendants, but the Court reserves jurisdiction to order the return of funds by the recipients hereafter if it should be demonstrated that such payments were improper in any manner.

Dated: March 2, 1979

/s/ .....
Julius M. Title, *Judge*

(Proof of Service—1013a and 2015.5 C.C.P.)

State of California,
County of Los Angeles, *ss.*

I, the undersigned, say: I am and was at all times herein mentioned, a citizen of the United States and a resident of the County of Los Angeles, over the age of eighteen years and not a party to the within action or proceeding; that my business address is 9595 Wilshire Blvd., Suite 600, Beverly Hills, California 90212; that on March 2, 1979, I served the within Order Dissolving Receivership; Injunction on the interested parties in said action or proceeding by causing to have hand-delivered to their counsel of record herein a true copy thereof enclosed in a sealed envelope, and addressed as follows:

Ervin, Cohen & Jessup
9401 Wilshire Blvd., Ninth Floor
Beverly Hills, California 90210

Michael J. Clemens, Esq.
9100 Wilshire Blvd., Suite 955
Beverly Hills, California 90212

Ralph H. Nutter, Esq.
Kaplan, Livingston, Goodwin, Berkowitz & Selvin
450 North Roxbury Drive
Beverly Hills, California 90210

Palazzo & Kessler
10100 Santa Monica Blvd., Suite 1370
Los Angeles, California 90067

Appendix N—Order Dissolving Receivership and Injunctive Order

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 2nd day of March, 1979, at Beverly Hills, California.

/s/ Catherine Kavanaugh
Catherine Kavanaugh

Appendix O

Minute Order Reimposing Receivership (Filed March 12, 1979)

SUPERIOR COURT OF CALIFORNIA

County of Los Angeles

Julius M. Title *Judge*
G. Torrellas *Deputy Sheriff*

G. Hassen, *Deputy Clerk*
G. Scavarda, *Reporter*

C 267 607

The People of the State of California

vs.

Worldwide Church of God, Inc., *et al.*

Hillel Chodos & L. Tapper
(for Plaintiffs)

M. Clemens, R. Nutter and J. Jaenicke
(for Receiver)

Aulana L. Peters
(for Accountants)

Arnold D. Larson
(for Intervenor)

Allan Browne, W. Morgan and E. Horvitz
(for Defendants)

Nature of Proceedings:
Hearing on Final Accounting of Receiver, etc.

Matters come on for hearing. Hillel Chodos' motion for attorney fees and costs is denied without prejudice. The Court declares that it will not take oral testimony on the final accounting of the former Receiver, but will decide the issue on the further written objections, declarations and points and authorities of counsel. All subpoenas issued for today's proceedings are ordered quashed. The former Receiver shall make available to the defendants, for examination in the Receiver's offices, all records, bills, vouchers, etc., including attorney time records. The accounting firm of Peat, Marwick and Mitchell shall also make available to the defendants all of its records on the final accounting. Said examinations by the defendants shall be completed on or before March 16, 1979 and their objections in reference to the final accounting shall be delivered to the Court on that date. Counsel for the Receiver is directed to file, on or before March 14, 1979, declarations setting forth their theory on the refusal of payment for the services of the security firm, Boyd and Associates. Any reply by Boyd and Associates shall be filed on or before March 16, 1979.

Defendants' motions for leave to sue Receiver Steve Weismann to increase the amount of his bond are denied. Defendants' motion for undertaking on granting injunction pursuant to CCP 525 is denied. The declaration of Willis J. Bicket is ordered filed.

The Court finds that the taking of the appeal by the defendants from the Court's order of March 2, 1979, is not per se violative of said order, but nevertheless the status quo of the assets and records must be maintained pending appeal. The Court vacates its prior orders re the dissolu-

tion of the Receivership and appoints David L. Ray as Receiver on terms and conditions enunciated by the Court in open court this date and as contained in the notes of the official court reporter. Counsel for the Plaintiff is directed to prepare a written order. Said Receiver is directed to file a bond in the amount of $10,000.00. The Court sets the amount of a bond to stay Receivership pending appeal at $1,000,000.00. Pursuant to request of Plaintiff, the Court directs that the record reflect that Stanley P. Rader is present in Court this date.

A copy of this minute order is mailed to all counsel this date.

Appendix P

Minute Order Denying Protective Order (Filed May 29, 1979)

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

HONORABLE THOMAS T. JOHNSON, *Judge*
C. E. IEAR, *Deputy Clerk*

C 267607

THE PEOPLE OF THE STATE OF CALIFORNIA, *ex rel.*,
ALVIN EARL TIMMONS, *et al.*

VS.

WORLDWIDE CHURCH OF GOD, INC., *etc., et al.*

NATURE OF PROCEEDINGS: Submitted Matter

The motion of defendants, Worldwide Church of God, Inc., Ambassador College, Inc., Ambassador International Cultural Foundation, Inc., Worldwide Advertising, Inc., Gateway Publishing, Inc., Herbert W. Armstrong, Stanley R. Rader, Henry Cornwall, and Ralph R. Helge for protective order, having been taken under submission on May 23, 1979, the Court now makes the following ruling:

> Motion is denied. The Court finds insufficient showing of necessity for such an order.

Counsel for Plaintiff is to give notice.

Minutes Entered
May 29, 1979
County Clerk

Court of Appeals Denial of Writ (Filed August 21, 1979)

Los Angeles, Cal. 8-21, 1979

TITLE

Worldwide Church of God, Inc., etc. et al.

VS.

Superior Court of L.A. Co.
The People, RPI S.C. #C 267607

THE COURT:

The Petition for writ of mandate, etc. is denied.

CLAY ROBBINS, *Clerk*

Appendix Q

Letter of Attorney General Deukmejian to Honorable Douglas Applegate (Filed March 23, 1979)

STATE OF CALIFORNIA

GEORGE DEUKMEJIAN
(Pronounced Duke-may-gin)
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

555 Capital Mall, Suite 350
Sacramento 95814
(916) 445-9555

March 23, 1979

Honorable Douglas Applegate
House of Representatives
1330 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Applegate:

Enclosed are the comments you requested concerning the Worldwide Church of God.

The Attorney General's office is currently reviewing information obtained by the court-appointed receivers. Any future legal actions will be determined by that review.

You should know how this action came about. Worldwide Church of God, Inc., is a California corporation created

under the general nonprofit code, as are Ambassador College and Ambassador International Cultural Foundation. Under the law, each is deemed to be a charitable organization, holding its assets in trust for the public good.

The Statutes and court decisions clearly impose a duty upon the Attorney General's office to insure that funds and assets of charitable organizations are used for the purposes stated in the articles of incorporation. Some members of the church notified the Attorney General's office that funds and assets were being diverted to other uses. Accountability and proper disposition of charitable assets are required at all times by all charitable organizations. Moreover, these standards, although delicately balanced in the case of religious corporations, nevertheless must apply. The United States Supreme Court has carefully delineated the cases involving church property on the one hand and church doctrine on the other hand in its First Amendment decisions.

You should know that the arguments raised by the defendants, both constitutional and otherwise, have been reviewed by three Superior Court judges, four Court of Appeal justices, a United States District Court judge, and are now pending before the California Supreme Court.

The record, which Judge Title used to order a full receivership, was extensive, consisting not only of declarations but also documentary evidence and live testimony introduced during a three-day hearing. Thus, any question concerning the sufficiency of evidence and appropriateness of the action in seeking and obtaining a receiver was thoroughly

Appendix Q—Letter of Attorney General Deukmejian to Honorable Douglas Applegate

aired and resolved in our favor, and we have proceeded from that point.

We are pleased to be of assistance to you.

Most cordially,

/s/ GEORGE DEUKMEJIAN
George Deukmejian

GD/dh

Appendix R

Notice of Taking Depositions and Notice to Produce Documents (to H. Armstrong) (Filed January 22, 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Case No. C 267 607

[TITLE OMITTED]

TO DEFENDANTS STANLEY R. RADER and HERBERT W. ARMSTRONG and to THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that plaintiffs and relators will take the depositions of Herbert W. Armstrong and Stanley R. Rader at the offices of the Attorney General of the State of California, 3580 Wilshire Boulevard, Room 800, Los Angeles, California 90010, before a Notary Public in and for the State of California, on the dates and at the times below indicated:

Witness	*Date*	*Time*
STANLEY R. RADER	January 31, 1979	9:30 a.m.
HERBERT W. ARMSTRONG	February 1, 1979	9:30 a.m.

If for any reason the taking of said depositions is not completed on said dates, the taking of said depositions will be continued from day to day, excluding Sundays and holidays, until completed.

PLEASE TAKE FURTHER NOTICE that defendants Stanley R. Rader and Henry W. Armstrong are required, pursuant to Section 2019(a)(5) of the Code of Civil Procedure, to

bring and produce at said depositions all of the writings in their respective possession or control described in Schedule A hereto, which is by this reference incorporated herein as though set forth in full.

Dated: January 22, 1979

GEORGE DEUKMEJIAN
Attorney General

LAWRENCE R. TAPPER
Deputy Attorney General

By .....
Lawrence R. Tapper
Attorneys for Plaintiffs and Relators

SCHEDULE A

1. As used herein, the term "writings" is intended to be defined in the manner set forth in California Evidence Code Section 250, which provides as follows:

Section 250: *"Writing"*.

"'Writing' means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof."

2. "Rader" means and refers to defendant Stanley R. Rader and any and all of his agents, representatives, attorneys, or other persons acting or purporting to act on his behalf.

3. "Armstrong" means and refers to defendant Herbert W. Armstrong and any and all of his agents, representatives, attorneys, or other persons acting or purporting to act on his behalf.

4. The "Worldwide Church of God" means and refers to defendant Worldwide Church of God, Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys or other persons acting or purporting to act on its behalf.

5. "Ambassador College" means and refers to defendant Ambassador College Inc., a California corporation, and any and all of its agents, representatives, directors, officers,

subsidiaries, affiliates, attorneys, or other persons acting or purporting to act on its behalf.

6. "Ambassador International" shall mean and refer to defendant Ambassador International Cultural Foundation, Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys, or other persons acting or purporting to act on its behalf.

7. "Wilshire Travel" shall mean and refer to defendant Wilshire Travel, Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys, or other persons acting or purporting to act on its behalf.

8. "Worldwide Advertising" shall mean and refer to defendant Worldwide Advertising, Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys, or other persons acting or purporting to act on its behalf.

9. "Gateway Publishing" shall mean and refer to defendant Gateway Publishing Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys, or other persons acting or purporting to act on its behalf.

10. "Environmental Plastics" shall mean and refer to defendant Environmental Plastics, Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys or other persons acting or purporting to act on its behalf.

11. As used herein the term "evidence" shall mean and include every document which in any respect, matter, manner or particular reflects, summarizes, establishes, depicts, records, reports, refers to or relates to the act, event, condition, communication or other matter in question.

The books, records and documents which are to be produced at the taking of the depositions of Rader and Armstrong noticed concurrently herewith are as follows:

1. All writings which constitute, refer, reflect, relate, pertain to or evidence communications between Rader and Armstrong, or either of them, on the one hand, and Worldwide Church of God, Ambassador College, Ambassador International, Wilshire Travel, Worldwide Advertising, Gateway Publishing, and Environmental Plastics, or any of them, on the other hand.

2. All writings which evidence the personal finances of Rader and Armstrong, or either of them, from January 1, 1970 to present.

3. All diaries, telephone logs or similar writings which evidence appointments, meetings, telephone conversations, or communications by or to Rader or Armstrong from January 1, 1970 to present.

4. All writings which evidence business or financial dealings between Rader and Armstrong, or either of them, on the one hand, and Worldwide Church of God, Ambassador College, Ambassador International, Wilshire Travel, Worldwide Advertising, Gateway Publishing, and Environmental Plastics, or any of them, on the other hand.

Appendix R—Notice of Taking Depositions and Notice to Produce Documents (to H. Armstrong)

5. All writings which relate to the property in Texas commonly referred to as the "Big Sandy Property".

6. All writings which relate to the property in Beverly Hills commonly known as 840 Loma Vista Drive, Beverly Hills, California.

Appendix S

Notice of Taking Deposition and Notice to Produce Documents (to H. Armstrong) (Filed July 26, 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

No. C 267-607

[TITLE OMITTED]

To Defendant Herbert W. Armstrong and to His Attorneys of Record:

PLEASE TAKE NOTICE that plaintiff will take the deposition of defendant Herbert W. Armstrong at the offices of Bouley, Schlesinger, Dicurti, Schippers, Garwood & Erwin, located at 1500 Arizona Bank Plaza, 33 North Stone, Tucson, Arizona 85701, before a Notary Public of the State of Arizona, on August 13, 1979, at 10:00 o'clock a.m.

If for any reason the taking of said deposition is not completed on said date, the taking of said deposition will be continued from day to day, excluding Sundays and holidays, until completed.

PLEASE TAKE FURTHER NOTICE that defendant Herbert W. Armstrong is required, pursuant to Section 2019(a)(5) of the Code of Civil Procedure, to bring and produce at said deposition all of the writings in his possession or control

described in Schedule A hereto, which is by this reference incorporated herein as though set forth in full.

DATED: July 26, 1979.

GEORGE DEUKMEJIAN, *Attorney General*
LAWRENCE R. TAPPER
JAMES M. CORDI
WILLIAM S. ABBEY
LAUREN R. BRAINARD
Deputy Attorneys General

By /s/ JAMES M. CORDI
JAMES M. CORDI
Attorneys for Plaintiff

SCHEDULE A

1. As used herein, the term 'writings' is intended to be defined in the manner set forth in California Evidence Code Section 250, which provides as follows:

Section 250: *"Writings".*

"'Writings' means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof."

2. "Rader" means and refers to defendant Stanley R. Rader and any and all of his agents, representatives, attorneys, or other persons acting or purporting to act on his behalf.

3. "Armstrong" means and refers to defendant Herbert W. Armstrong and any and all of his agents, representatives, attorneys, or other persons acting or purporting to act on his behalf.

4. The "Worldwide Church of God" means and refers to defendant Worldwide Church of God, Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys, or other persons acting or purporting to act on its behalf.

5. "Ambassador College" shall mean and refer to defendant Ambassador College, Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys, or other persons acting or purporting to act on its behalf.

6. "Ambassador International" shall mean and refer to defendant Ambassador International Cultural Foundation, Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys, or other persons acting or purporting to act on its behalf.

7. "Mid-Atlantic" and "Excelsior" means and refers to defendants Mid-Atlantic Leasing, a corporation or partnership, and Excelsior Leasing, a corporation, respectively, and any and all of their agents, representatives, directors, officers, subsidiaries, affiliates, attorneys, or other persons acting, or purporting to act on their behalf.

8. "Worldwide Advertising" shall mean and refer to defendant Worldwide Advertising, Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys, or other persons acting or purporting to act on its behalf.

9. "Gateway Publishing" shall mean and refer to defendant Gateway Publishing, Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys, or other persons acting or purporting to act on its behalf.

10. "Environmental Plastics" shall mean and refer to defendant Environmental Plastics Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys, or other persons acting or purporting to act on its behalf.

11. As used herein, the term "evidence" shall mean and include every document which in any respect, matter, man-

ner or particular reflects, summarizes, establishes, depicts, records, reports, refers to or relates to the act, event, condition, communication or other matter in question.

The books, records and documents which are to be produced at the taking of the deposition of Armstrong noticed concurrently herewith are as follows:

1. All writings which constitute, refer, reflect, relate, pertain to or evidence communications between Rader and Armstrong, or either of them, on the one hand, and Worldwide Church of God, Ambassador College, Ambassador International, Worldwide Advertising, Gateway Publishing, Environmental Plastics, Mid-Atlantic, Excelsior, or any of them, on the other hand, which writings pertain in any way to any financial transactions, or the use or proposed use of any assets of any of the above entities.

2. All writings which evidence the personal finances of Armstrong from January 1, 1970 to present.

3. All diaries, telephone logs or similar writings which evidence appointments, meetings, telephone conversations, or communications by or to Rader or Armstrong from January 1, 1970 to present.

4. All writings which evidence business or financial dealings between Rader and Armstrong, or either of them, on the one hand, and Worldwide Church of God, Ambassador College, Ambassador International, Worldwide Advertising, Gateway Publishing, Environmental Plastics, Mid-Atlantic, Excelsior, or any of them, on the other hand.

5. All writings which evidence business or financial dealings between defendant Osamu Gotoh, Raymond L. Wright, Henry Cornwall, Ralph Helge, or any of them, on the one hand, and Worldwide Church of God, Ambassador College,

Appendix S—Notice of Taking Depositions and Notice to Produce Documents (to H. Armstrong)

Ambassador International, Worldwide Advertising, Gateway Publishing, Environmental Plastics, Mid-Atlantic, Excelsior, or any of them, on the other hand.

6. All writings which relate to the property in Texas commonly referred to as the "Big Sandy Property".

7. All writings which relate to the property in Beverly Hills commonly known as 840 Loma Vista Drive, Beverly Hills, California.

8. All writings which relate to the purposes and use of Third Tithe from January 1, 1960 to the present.

9. All writings which relate to the sale of any real property by Worldwide Church of God, Ambassador College or Ambassador International within the past 24 months.

10. All writings, including employment contracts, which evidence any compensation, perquisites, expense reimbursements, loans or other financial benefits received by Armstrong, Rader, Gotoh, Cornwall, Helge, Wright, or any of them, from Worldwide Church of God, Ambassador College, Ambassador International, or any of them, from January 1, 1970 to the present.

11. All corporate minute books of Worldwide Church of God, Ambassador College, and Ambassador International from the inception of such minutes to the present.

12. All writings which relate to adoption or amendment of articles of incorporation or by-laws of Worldwide Church of God, Ambassador College, and Ambassador International, or any of them, from January 1, 1957 to the present.

Appendix T

Interrogatories to Worldwide Church of God (Filed May 18, 1979)

SUPERIOR COURT OF
THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

NO. C 267-607

[TITLE OMITTED]

Plaintiff requests that defendant Worldwide Church of God, Inc. answer the following interrogatories under oath within 30 days from the date of service pursuant to California Code of Civil Procedure, section 2030.

DEFINITIONS:

As used throughout these interrogatories, "person" refers to individuals, corporations, partnerships, joint ventures, associations and all other forms of entities; "each" means each and every; "you" refers to defendant Worldwide Church of God, Inc.

INTERROGATORY No. 1:

State the total compensation, including but not limited to salary, which you paid each of the following persons or entities for services rendered in any capacity whatsoever in each year from the time you first paid him any such compensation to the present (excluding payments prior to 1957):

(a) Stanley R. Rader;

(b) Osamu Gotoh;

(c) Raymond L. Wright;

(d) Henry Cornwall;

(e) Ralph Helge;

(f) Herbert W. Armstrong;

(g) The accounting firm of Rader, Cornwall, Kessler and Pallazo; or any predecessor or successor thereof;

(h) The law firm of Rader, Helge and Gerson, or any predecessor or successor thereof;

(i) Worldwide Advertising;

(j) Bradley Advertising.

INTERROGATORY No. 2:

State the total amount of expenses which you paid to, or for the benefit of, each of the following persons or entities in each year from the time you first paid such expenses to each such person or entity to the present (excluding payments prior to 1957). ("Expenses" means reimbursement by you for any expenditure or payment incurred by any other person, or payment by you of any debt charge or bill incurred by any other person.)

(a) Stanley R. Rader;

(b) Osamu Gotoh;

(c) Raymond L. Wright;

(d) Henry Cornwall;

(e) Ralph Helge;

(f) Herbert W. Armstrong;

(g) The accounting firm of Rader, Cornwall, Kessler and Pallazo, or any successor or predecessor thereof;

(h) The law firm of Rader, Helge and Gerson, or any predecessor or successor thereof;

(i) Worldwide Advertising;

(j) Bradley Advertising.

INTERROGATORY No. 3:

Have you ever made any payments to corporations, partnerships, or other business entities in which any of the persons listed in interrogatory 1 (or any member of the immediate families of such persons) had an ownership interest?

INTERROGATORY No. 4:

Name the entities to which you made the payments referred to in the previous interrogatory, and list the present address and telephone number of each.

INTERROGATORY No. 5:

As to each entity listed in your answer to the previous interrogatory, please state the total amount of payments made to each entity in each year from the time you first made any such payment to the present (payments made prior to 1957 may be excluded).

INTERROGATORY No. 6:

Have you ever solicited donations from persons who are not members of the Worldwide Church of God, Inc.?

INTERROGATORY No. 7:

If your answer to the previous interrogatory was yes, please state the following:

(a) Were any such solicitations made in radio and/or television broadcasts, and if so, when, what radio and/or television stations broadcast them, and what is the location of each such station?

(b) Were any such solicitations made through the mails, and if so, approximately how many such solicitations were mailed in each year since 1969?

(c) Were any such solicitations made by means of personal contact, and if so, approximately how many persons were contacted in each year since 1969?

(d) Were any representations made to those solicited as to the purposes for which their donations would be used, and if so, what?

(e) Have you ever received donations from persons who were not at the time of such donations members of the Worldwide Church of God, Inc., and if so, please state the total amount received each year from 1969 to the present.

INTERROGATORY No. 8:

Have you ever made gifts of money or other assets to any person, corporation or other business entity (excluding years prior to 1969)?

INTERROGATORY No. 9:

If you answer to the previous interrogatory was yes, please state the following:

(a) The name, business address and business telephone number of each recipient of a gift;

(b) The cost to you of each such gift, and if the gift was one of money, the amount of money so given;

(c) Identify what gifts were given to which donees;

(d) State the purpose for which each such gift was made.

INTERROGATORY No. 10:

Have you ever solicited donations for the construction of Ambassador Auditorium in Pasadena, California?

INTERROGATORY No. 11:

Have you received any donations of funds for the construction of Ambassador Auditorium?

INTERROGATORY No. 12:

(a) If your answer to the previous interrogatory was yes, please state the total amount of money and total value of other assets received for that purpose.

(b) Please state the purpose or purposes for which the funds so collected were used.

(c) If not used for construction of Ambassador Auditorium, please explain in detail all uses to which you put such funds.

INTERROGATORY No. 13:

What was the total cost of construction of Ambassador Auditorium?

INTERROGATORY No. 14:

Did you obtain any loans to finance the construction of Ambassador Auditorium?

INTERROGATORY No. 15:

If your answer to the previous interrogatory was yes, please state the following:

(a) The name, address and telephone number of the lender or lenders;

(b) The exact amount loaned by each lender.

INTERROGATORY No. 16:

Have you ever leased motor vehicles for the use of your officers, directors, employees, agents or independent contractors?

INTERROGATORY No. 17:

If your answer to the previous interrogatory was yes, please state the following information:

(a) The name, address and telephone number of each lessor;

(b) Do any of the defendants in this action or members of their immediate families have any ownership interest in any of the said lessors now or at any time in the past?

INTERROGATORY No. 18:

You (*sic*) you now or have you ever solicited money from your members which is designated as "the third tithe"?

INTERROGATORY No. 19:

If your answer to the previous interrogatory was yes, please give the following information:

(a) What is the purpose of the third tithe?

(b) Have you ever made any representations to your members as to the purpose for which the third tithe would be used by you? If your response is affirmative, set forth the representation(s) made by you in that respect.

INTERROGATORY No. 20:

Did you ever represent to your members that the third tithe was used for the purpose of aiding widows and orphans?

INTERROGATORY No. 21:

If your answer to the previous interrogatory was yes, please give the names, addresses and telephone numbers of all widows and orphans who reside in the State of California who have been given such aid within the last five years.

INTERROGATORY No. 22:

Please state how much money was collected by you in the form of the third tithe in each year from 1969 to the present time.

INTERROGATORY No. 23:

List the name, current address and telephone number of each member of your board of directors from 1957 to the present.

Appendix T—Interrogatories to Worldwide Church of God

INTERROGATORY No. 24:

Identify each parcel of real property owned by you as of December 31, 1978.

INTERROGATORY No. 25:

List each parcel of real property owned by you as of December 31, 1977.

INTERROGATORY No. 26:

List all accounts receivable, promissory notes or any other extensions of credit (identifying the date, amount and debtor of each) carried on your books now or at any other time, evidencing debts owed to you by any of the following persons or entities:

(a) Stanley R. Rader;

(b) Osamu Gotoh;

(c) Raymond L. Wright;

(d) Henry Cornwall;

(e) Ralph Helge;

(f) Herbert W. Armstrong;

(g) The accounting firm of Rader, Cornwall, Kessler and Pallazo; or any predecessor or successor thereof;

(h) The law firm of Rader, Helge and Gerson, or any predecessor or successor thereof;

(i) Worldwide Advertising;

(j) Bradley Advertising.

(k) Any member of the immediate family of the persons listed in (a)-(f) above.

Appendix T—Interrogatories to Worldwide Church of God

INTERROGATORY No. 27:

If you listed any debts in response to the previous interrogatory:

(a) Have any such debts not been paid, in whole or in part, and if not, which ones?

(b) What is the unpaid principal and interest balance on each such unpaid debt?

INTERROGATORY No. 28:

List by institution name, brand name and account number each and every account and/or safe deposit box ever maintained by you in a bank, savings and loan association or like financial institution, from 1957 to the present.

INTERROGATORY No. 29:

List by person, date of transaction, property description, character of transaction, and consideration, monetary or otherwise, all transactions between you and any of the following persons or entities where property was sold or transferred either to you by said persons or entities or by you to said persons or entities, from 1957 to the present:

(a) Stanley R. Rader;

(b) Osamu Gotoh;

(c) Raymond L. Wright;

(d) Henry Cornwall;

(e) Ralph Helge;

(f) Herbert W. Armstrong;

(g) The accounting firm of Rader, Cornwall, Kessler and Pallazo; or any predecessor or successor thereof;

(h) The law firm of Rader, Helge and Gerson, or any predecessor or successor thereof;

(i) Worldwide Advertising;

(j) Bradley Advertising.

(k) Any member of the immediate family of the persons listed in (a)-(f) above.

INTERROGATORY No. 30:

List by date of lease or rental agreement, property description, name of lessee and lessor, term of lease and consideration, monetary or otherwise, all rental or lease transactions between you and any of the following persons or entities wherein property was rented or leased, either to you by said persons or entities or by you to said persons or entities, from 1957 to the present:

(a) Stanley R. Rader;

(b) Osamu Gotoh;

(c) Raymond L. Wright;

(d) Henry Cornwall;

(e) Ralph Helge;

(f) Herbert W. Armstrong;

(g) The accounting firm of Rader, Cornwall, Kessler and Pallazo; or any predecessor or successor thereof;

(h) The law firm of Rader, Helge and Gerson, or any predecessor or successor thereof;

(i) Worldwide Advertising;

(j) Bradley Advertising.

(k) Any member of the immediate family of the persons listed in (a)-(f) above.

Dated: May 18, 1979

GEORGE DEUKMEJIAN, *Attorney General*
JAMES M. CORDI,
Deputy Attorney General

By JAMES M. CORDI
JAMES M. CORDI
Deputy Attorney General
Attorneys for Plaintiff

Appendix U

Request for Production of Documents by Worldwide Church of God (Filed May 18, 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

No. C 267-607

[TITLE OMITTED]

To Defendant Worldwide Church of God, Inc. and to its Attorneys of Record in this action. You are hereby requested under Code of Civil Procedure section 2031 to produce for plaintiff the following:

Definitions

As used throughout these Requests for Production:

1. "Person" means any natural person or legal entity, whether incorporated or not.

2. "Correspondence" means any written communication of any kind in any form.

3. "General disbursement voucher" means a form designated by that name used by the Church's accounting department, the same as or similar to the example attached hereto as Exhibit "A."

1. The Corporate Minutes of Worldwide Church of God Inc. including minutes of any meeting of committees of the Board of Directors, from January 1, 1957 to the present. (Worldwide Church of God, Inc. will hereafter be referred to as the Church.)

Appendix U—Request for Production of Documents by Worldwide Church of God

2. All leases, agreements and contracts between the Church and defendant Mid-Atlantic Leasing, a partnership, executed or in force at any time between the inception of Mid-Atlantic Leasing and the present.

3. Each and every cancelled check, draft or money order paid by the Church to Mid-Atlantic Leasing, or to any person on its behalf, from the inception of Mid-Atlantic Leasing to the present. Each and every general disbursement voucher, check request, voucher, invoice, statement or bill supporting or pertaining to such payments.

4. Each and every written contract, agreement or lease between the Church and defendant Worldwide Advertising, Inc. executed or in force between the inception of Worldwide Advertising, Inc. and the present. Each and every agreement memorandum, correspondence or written record of any type pertaining to the termination of services rendered by Worldwide Advertising, Inc. to the Church, including any written contract or agreement providing for the payment of any funds by the Church to Worldwide Advertising, or to any person on its behalf, by reason of such termination of services.

5. Each and every cancelled check, draft or money order paid by the Church to World Wide Advertising, or to any person on its behalf, from the inception of World Wide Advertising to the present. Each and every general disbursement voucher, check request, voucher, invoice, statement or bill supporting or pertaining to such payments.

6. Each and every cancelled check, draft or money order paid by the Church to or for the benefit of defendant

Stanley R. Rader, or to any person on his behalf, for the purpose of defraying any expense whatsoever pertaining to the house located at 840 Loma Vista Road, Beverly Hills, California. Each and every general disbursement voucher, check request, voucher, invoice, statement or bill supporting or pertaining to such payments.

7. Any and all deeds, purchase agreements, escrow instructions, notes, loan agreements or security instruments pertaining to the 1971 purchase by the Church of the house located at 840 Loma Vista Road, Beverly Hills, California and the subsequent transfer of said house to Stanley R. Rader.

8. Any and all sale agreements, deeds, escrow instructions, notes, loan agreements or security instruments pertaining to the 1978 purchase by defendant Stanley R. Rader of the house located at 360 Waverly Drive in Pasadena for approximately $225,000 from the Church. Each and every cancelled check, draft or money order paid by the Church to or for the benefit of Stanley R. Rader, or to any person on his behalf, pertaining to the said house. Each and every check, general disbursement voucher, request, voucher, statement, invoice, or bill supporting or pertaining to such payments.

9. Any and all deeds, sale agreements, escrow instructions, loan agreements, notes or security instruments pertaining to the 1977 purchase by the Church of a house in Tucson, Arizona for defendant Stanley R. Rader. Each and every cancelled check, draft or money order paid by the Church to or for the benefit of defendant Stanley R. Rader, or to any person on his behalf, for any expense

pertaining to the said house. Each and every general disbursement voucher, check request, voucher, statement, invoice or bill supporting or pertaining to such payments.

10. Each and every cancelled check, draft or money order paid by the Church to defendant Environmental Plastics, Inc. between the inception of Environmental Plastics and the present. Each and every general disbursement voucher, check request, voucher, statement, invoice or bill supporting or pertaining to such payments.

11. Each and every cancelled check, draft or money order paid by the Church, to or for the benefit of Osamu Gotoh, or to any person on his behalf, as reimbursement for expenses, compensation, or for any other purpose, from the time of such payment to the present. Each and every general disbursement voucher, check request, voucher, invoice, statement or bill pertaining to such payments.

12. Any and all contracts, agreements or leases between the Church, and defendant Excelsior Financial Services Inc. executed or in force between the inception of Excelsior Financial Services Inc. and the present.

13. Each and every cancelled check, draft or money order paid by the Church to Excelsior Financial Services, Inc. from its inception to the present time. Each and every general disbursement voucher, check request, voucher, invoice, bill or statement pertaining to any of the above payments.

14. Any and all correspondence to or from the Church, or any person on its behalf, and

a. Mid-Atlantic Leasing, or any person on its behalf;

b. Worldwide Advertising, or any person on its behalf;

c. Environmental Plastics, or any person on its behalf;

d. Excelsior Leasing, or any person on its behalf;

e. Defendant Wilshire Travel, or any person on its behalf; from the inception of any of the above named entities to the present.

15. Any and all correspondence to or from the Church, or any person on its behalf, and Osamu Gotoh, or any person on his behalf, from January 1, 1970 to the present.

16. Each and every cancelled check, draft or money order paid by the Church to or for the benefit of defendant Osamu Gotoh, or to any person on his behalf, from the time of the first such payment to the present. Each and every general disbursement voucher, check request, voucher, invoice, statement or bill supporting or pertaining to such payments.

17. Each and every cancelled check, draft or money order paid by the church to or for the benefit of defendant Stanley R. Rader, or to any person on his behalf, to defray his expenses since 1979 to present. Each and every general disbursement voucher, check request, voucher, invoice, statement or bill supporting or pertaining to such payments.

18. Each and every cancelled check, draft or money order paid by the church to or for the benefit of defendant Stanley R. Rader, or to any person on his behalf, as salary, from the time of the first such payment to the present.

The above described documents and things shall be produced for inspection and copying by plaintiff on June 20, 1979 at 10:00 a.m. at the office of the Attorney General, 3580 Wilshire Boulevard, Room 500, Los Angeles, California.

The above described documents and things are currently in the possession, custody or control of defendant Worldwide Church of God, not privileged, and relevant to the subject matter of this action or reasonably calculated to lead to discovery of admissible evidence in this action.

Dated: May 18, 1979

GEORGE DEUKMEJIAN
Attorney General
LAWRENCE R. TAPPER
JAMES M. CORDI
WILLIAM S. ABBEY
LAUREN R. BRAINARD
Deputy Attorneys General

By /s/ JAMES M. CORDI
JAMES M. CORDI
Deputy Attorney General

Attorneys for Plaintiff

Appendix V

Request for Production of Documents by Stanley Rader (Filed June 5, 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

No. C 267-607

[TITLE OMITTED]

TO DEFENDANT STANLEY R. RADER, AND TO HIS ATTORNEYS OF RECORD IN THIS ACTION: You are hereby requested under Code of Civil Procedure section 2031 to produce for plaintiff the documents and things described hereinbelow. Said documents and things are currently in the possession, custody or control of defendant Stanley R. Rader, are not privileged, and are relevant to the subject matter of this action or reasonably calculated to lead to discovery of admissible evidence in this action.

Said documents and things shall be produced for inspection and copying on July 5, 1979 at 10:00 a.m. at the offices of the Attorney General, 3580 Wilshire Boulevard, Room 500, Los Angeles, California 90010.

Said documents and things are the following:

1. The corporate minutes of Worldwide Advertising, Inc. from its inception to the present.

2. The books and accounts of Worldwide Advertising, Inc. from its inception to the present, including its general ledger, accounts payable, accounts receivable, executive salaries, stockholder distributions or dividends, client lists, bank statements and cancelled checks.

Appendix V—Request for Production of Documents by Stanley Rader

3. Each and every contract or agreement between Worldwide Advertising, Inc., from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

4. Each and every statement of deductions and/or earnings, W-2 Form(s), and Form(s) 1099 pertaining to salary and/or earnings of Stanley R. Rader from Worldwide Advertising, Inc. from its inception to the present.

5. The corporate minutes of Bradley Advertising, Inc. from its inception to the present.

6. The books and accounts of Bradley Advertising, Inc. from its inception to the present, including its general ledger, accounts payable, accounts receivable, executive salaries, stockholder distributions or dividends, client lists, bank statements and cancelled checks.

7. Each and every contract or agreement between Bradley Advertising, Inc., from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

8. Each and every statement or deductions and/or earnings, W-2 Form(s), and Form(s) 1099 pertaining to salary

and/or earnings of Stanley R. Rader from Bradley Advertising, Inc. from its inception to the present.

9. The corporate minutes of Gateway Publishing, Inc. from its inception to the present.

10. The books and accounts of Gateway Publishing, Inc. from its inception to the present, including its general ledger, accounts payable, accounts receivable, executive salaries, stockholder distributions or dividends, client lists, bank statements and cancelled checks.

11. Each and every contract or agreement between Gateway Publishing, Inc., from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

12. Each and every statement of deductions and/or earnings, W-2 Form(s) and Form(s) 1099 pertaining to salary and/or earnings of Stanley R. Rader from Gateway Publishing, Inc. from its inception to the present.

13. The corporate minutes of Excelsior Financial Services, Inc. from its inception to the present.

14. The books and accounts of Excelsior Financial Services, Inc. from its inception to the present, including its general ledger, accounts payable, accounts receivable, executive salaries, stockholder distributions or dividends, client lists, bank statements and cancelled checks.

15. Each and every contract or agreement between Excelsior Financial Services, Inc., from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

16. Each and every statement of deductions and/or earnings, W-2 Form(s), and Form(s) 1099 pertaining to salary and/or earnings of Stanley R. Rader from Excelsior Financial Services, Inc. from its inception to the present.

17. Each and every partnership agreement and/or agreements and amendments thereto for Mid-Atlantic Leasing since its inception to the present.

18. The books and records of Mid-Atlantic Leasing, including but not limited to its general ledger, accounts receivable, accounts payable, executive salaries, partnership distributions or dividends, client lists, bank statements and cancelled checks.

19. Each and every lease, agreement and/or contract between Mid-Atlantic Leasing, from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

20. Each and every partnership agreement and/or agreements and amendments thereto for the law firm of Rader, Helge and Gerson from its inception to the present.

Appendix V—Request for Production of Documents by Stanley Rader

21. The books and records of the law firm of Rader, Helge and Gerson, including but not limited to its general ledger, accounts receivable, accounts payable, executive salaries, partnership distributions or dividends, client lists, bank statements and cancelled checks.

22. Each and every lease, agreement and/or contract between the law firm of Rader, Helge and Gerson, from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

23. Each and every partnership agreement and/or agreements and amendments thereto for the accounting firm of Rader, Cornwall, Kessler and Palazzo, and any predecessor thereto, since its inception to the present.

24. The books and records for the accounting firm of Rader, Cornwall, Kessler and Palazzo, and any predecessor thereto, including but not limited to its general ledger, accounts receivable, accounts payable, executive salaries, partnership distributions or dividends, client lists, bank statements and cancelled checks.

25. Each and every lease, agreement and/or contract between the accounting firm of Rader, Cornwall, Kessler and Palazzo, and any predecessor thereto from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

Appendix V—Request for Production of Documents by Stanley Rader

C. Ambassador International Cultural Foundation.

26. Any and all deeds, agreements, escrow instructions, promissory notes, trust deeds, loan agreements, security instruments, tax bills, and leases or rental agreements pertaining to the real property and house located at 840 Loma Vista Road, Beverly Hills, California.

27. Each and every cancelled check, draft or money order reflecting payment of mortgage payments, taxes, utilities, maintenance, upkeep, repair, decoration, domestic or gardening servants, and furnishing of that real property and house located at 840 Loma Vista Road, Beverly Hills, California. Each and every statement or bill pertaining to said payments.

28. Each and every general disbursement voucher, check request, voucher, invoice, statement or bill submitted to any of the following entities for payment by said entity of any expense relating to the real property and house located at 840 Loma Vista Road, Beverly Hills, California:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

D. Worldwide Advertising, Inc.

29. Any and all deeds, agreements, escrow instructions, promissory notes, loan agreements, tax bills and security instruments pertaining to the real estate and house located at 360 Waverly Drive, Pasadena, California.

Appendix V—Request for Production of Documents by Stanley Rader

30. Any and all deeds, agreements, escrow instructions, loan agreements, promissory notes, tax bills and security instruments pertaining to that real property and house located at Tucson, Arizona purchased for the use and benefit of Stanley R. Rader by any or all of Worldwide Church of God, Ambassador College and Ambassador International Cultural Foundation.

31. Each and every general disbursement voucher, check request, voucher, invoice, statement or bill ever submitted by Stanley R. Rader, since 1969 to present, to any of the following entities for the purpose of obtaining reimbursement for expenses incurred in any capacity for said entity:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

32. Each and every cancelled check, draft or money order, statement of earnings and/or deductions, W-2 Form, Form 1099 or other documents reflecting salary and/or wages paid to Stanley R. Rader from 1965 to the present as an employee or principal by any of the following entities:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

D. Worldwide Advertising, Inc.

E. The Accounting Firm of Rader, Cornwall, Kessler and Palazzo.

Appendix V—Request for Production of Documents by Stanley Rader

F. The law firm of Rader, Helge and Gerson.

G. Bradley Advertising, Inc.

H. Excelsior Financial Services, Inc.

I. Mid-Atlantic Leasing

33. Each and every cancelled check, draft or money order and each and every bank statement on every account in any bank and/or savings and loan association, from 1969 to present, which stands in the name of Stanley R. Rader or that name as joint or co-tenant with another individual(s) or entity(ies).

DATED:

GEORGE DEUKMEJIAN, Attorney General
LAWRENCE R. TAPPER
JAMES M. CORDI
WILLIAM S. ABBEY
LAUREN R. BRAINARD
Deputy Attorneys General

By .....
LAUREN R. BRAINARD
Deputy Attorney General
Attorneys for Plaintiff

Appendix V—Request for Production of Documents by Stanley Rader

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Suite 1200
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MORGAN, WENZEL & MCNICHOLAS
W. MARSHAL MORGAN, ESQ.
1545 Wilshire Boulevard
Suite 800
Los Angeles, CA 90017

HORVITZ, GREINES & POSTER
ELLIS J. HORVITZ, ESQ.
15760 Ventura Boulevard
7th Floor
Encino, CA 91436

RADER, HELGE & GERSON
Union Bank Bldg., Ste. 706
201 S. Lake Avenue
Pasadena, California 91101

Appendix W

Request for Production of Documents and Things for Inspection and Copying by Henry Cornwall (June 5, 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

No. C 267-607

[TITLE OMITTED]

TO DEFENDANT HENRY CORNWALL, AND TO HIS ATTORNEYS OF RECORD IN THIS ACTION: You are hereby requested under Code of Civil Procedure section 2031 to produce for plaintiff the documents and things described hereinbelow. Said documents and things are currently in the possession, custody or control of defendant Henry Cornwall, are not privileged, and are relevant to the subject matter of this action or reasonably calculated to lead to discovery of admissible evidence in this action.

Said documents and things shall be produced for inspection and copying on July 9, 1979 at 10:00 a.m. at the offices of the Attorney General, 3580 Wilshire Boulevard, Room 500, Los Angeles, California 90010.

Said documents and things are the following:

1. The corporate minutes of Worldwide Advertising, Inc. from its inception to the present.

2. The books and accounts of Worldwide Advertising, Inc. from its inception to the present, including its general ledger, accounts payable, accounts receivable, executive salaries, stockholder distributions or dividends, client lists, bank statements and cancelled checks.

3. Each and every contract or agreement between Worldwide Advertising, Inc., from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

4. Each and every statement of deductions and/or earnings, W-2 Form(s), and Form(s) 1099 pertaining to salary and/or earnings of Henry Cornwall and Stanley R. Rader from Worldwide Advertising, Inc. from its inception to the present.

5. The corporate minutes of Bradley Advertising, Inc. from its inception to the present.

6. The books and accounts of Bradley Advertising, Inc. from its inception to the present, including its general ledger, accounts payable, accounts receivable, executive salaries, stockholder distributions or dividends, client lists, bank statements and cancelled checks.

7. Each and every contract or agreement between Bradley Advertising, Inc., from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

8. Each and every statement of deductions and/or earnings, W-2 Form(s), and Form(s) 1099 pertaining to salary

and/or earnings of Henry Cornwall and Stanley R. Rader from Bradley Advertising, Inc. from its inception to the present.

9. The corporate minutes of Gateway Publishing, Inc. from its inception to the present.

10. The books and accounts of Gateway Publishing, Inc. from its inception to the present, including its general ledger, accounts payable, accounts receivable, executive salaries, stockholder distributions or dividends, client lists, bank statements and cancelled checks.

11. Each and every contract or agreement between Gateway Publishing, Inc., from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

12. Each and every statement of deductions and/or earnings, W-2 Form(s), and Form(s) 1099 pertaining to salary and/or earnings of Henry Cornwall and Stanley R. Rader from Gateway Publishing, Inc. from its inception to the present.

13. The corporate minutes of Excelsior Financial Services, Inc. from its inception to the present.

14. The books and accounts of Excelsior Financial Services, Inc. from its inception to the present, including its general ledger, accounts payable, accounts receivable, ex-

ecutive salaries, stockholder distributions or dividends, client lists, bank statements and cancelled checks.

15. Each and every contract or agreement between Excelsior Financial Services, Inc., from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

16. Each and every statement of deductions and/or earnings, W-2 Form(s), and Form(s) 1099 pertaining to salary and/or earnings of Henry Cornwall and Stanley R. Rader from Excelsior Financial Services, Inc. from its inception to the present.

17. Each and every partnership agreement and/or agreements and amendments thereto for the accounting firm of Rader, Cornwall, Kessler and Palazzo, and any predecessor thereto, since its inception to the present.

18. The books and records for the accounting firm of Rader, Cornwall, Kessler and Palazzo, and any predecessor thereto, including but not limited to its general ledger, accounts receivable, accounts payable, executive salaries, partnership distributions or dividends, client lists, bank statements and cancelled checks.

19. Each and every lease, agreement and/or contract between the accounting firm of Rader, Cornwall, Kessler and Palazzo, and any predecessor thereto from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

20. Each and every cancelled check, draft or money order reflecting payment by Worldwide Advertising, Inc. of mortgage payments, taxes, utilities, maintenance, upkeep, repair, decoration, utilities, domestic or gardening servants, and the furnishing of that real property and house located at 840 Loma Vista Road, Beverly Hills, California. Each and every statement or bill pertaining to said payments.

21. Each and every general disbursement voucher, check request, voucher, invoice, statement or bill ever submitted by Henry Cornwall, since 1969 to present, to any of the following entities for the purpose of obtaining reimbursement for expenses incurred in any capacity for said entity:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

22. Each and every cancelled check, draft or money order, statement of earnings and/or deductions, W-2 Form, Form 1099 or other documents reflecting salary and/or wages paid to Henry Cornwall from 1965 to the present as an employee or principal by any of the following entities:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

D. Worldwide Advertising, Inc.

E. The Accounting Firm of Rader, Cornwall, Kessler and Palazzo.

F. The law firm of Rader, Helge and Gerson.

G. Bradley Advertising, Inc.

H. Excelsior Financial Services, Inc.

I. Mid-Atlantic Leasing.

23. Each and every cancelled check, draft or money order and each and every bank statement on every account in any bank and/or savings and loan association, from 1969 to present, which stands in the name of Henry Cornwall or that name as joint or co-tenant with another individual(s) or entity(ies).

Dated:

GEORGE DEUKMEJIAN
Attorney General
LAWRENCE R. TAPPER
JAMES M. CORDI
WILLIAM S. ABBEY
LAUREN R. BRAINARD
Deputy Attorneys General

By.....
LAUREN R. BRAINARD
Deputy Attorney General
Attorneys for Plaintiff

DECLARATION OF SERVICE BY MAIL

Re:

The People, etc. v. Worldwide Church of God, Inc., et al.; No. C 267-607

I am over 18 years of age, and not a party to the within cause; my business address is 800 Tishman Building, 3580 Wilshire Boulevard, Los Angeles, California 90010; I served a copy of the attached

> REQUEST TO HENRY CORNWALL FOR PRODUCTION OF DOCUMENTS AND THINGS FOR INSPECTION AND COPYING

on each of the following, by placing same in an envelope(s) addressed as follows:

SEE ATTACHED SERVICE LIST

Each said envelope was then on June 5, 1979 sealed and deposited in the United States Mail at Los Angeles, California, the county in which I am employed, with the postage thereon fully prepaid.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 5, 1979, at Los Angeles, California.

/s/ MARGARET HIETS
Declarant

Appendix W—Request for Production of Documents and Things for Inspection and Copying by Henry Cornwall

SERVICE LIST

MICHAEL J. CLEMENS, ESQ.
9100 Wilshire Boulevard
Suite 955
Beverly Hills, CA 90212

COMBS & GITTLER
Attorneys at Law
1888 Century Park East
Suite 1520
Los Angeles, California 90067

RONALD G. REES,
ARTHUR L. RALSTON
Attorneys at Law
DAVID RAY, ESQ., *Receiver*
8920 Wilshire Boulevard
Suite 500
Beverly Hills, CA 90211

RALPH H. NUTTER, ESQ.
KAPLAN, LIVINGSTON, GOODWIN,
BERKOWITZ & SLEVIN
450 North Roxbury Drive
Beverly Hills, CA 90210

PALAZZO & KESSLER
10100 Santa Monica Blvd.
Suite 1370
Los Angeles, CA 90067

HARNEY & MOORE
DAVID M. HARNEY, ESQ.
650 South Grand Avenue
Suite 1200
Los Angeles, CA 90017

TROY, MALIN & POTTINGER
MAYNARD J. KLEIN, ESQ.
1801 Century Park East,
16th Floor
Los Angeles, CA 90067

MORGAN, WENZEL & MCNICHOLAS
W. MARSHAL MORGAN, ESQ.
1545 Wilshire Boulevard
Suite 800
Los Angeles, CA 90017

ERVIN, COHEN & JESSUP
ALLAN BROWNE, ESQ.
9401 Wilshire Boulevard
9th Floor
Beverly Hills, CA 90212

HORVITZ, GREINES & POSTER
ELLIS J. HORVITZ, ESQ.
15760 Ventura Boulevard
7th Floor
Encino, CA 91436

IVERSON, YOAKUM, PAPIANO
& HATCH
ARNOLD D. LARSON, ESQ.
611 West Sixth Street
Suite 1900
Los Angeles, California 90017

RADER, HELGE & GERSON
Union Bank Bldg., Ste. 706
201 S. Lake Avenue
Pasadena, California 91101

Appendix X

Helge Declaration (Filed August 20, 1979)

DECLARATION OF RALPH K. HELGE

I, RALPH K. HELGE, hereby state as follows:

(1) That I have firsthand knowledge of the facts herein stated and could and would competently testify thereto under oath if called as a witness.

(2) I am an attorney licensed to practice law in the State courts of Illinois and California; and am also admitted to practice in many federal appellate courts and the United States Supreme Court.

(3) I have served as attorney for the Worldwide Church of God for more than 20 years and have represented the Church and its subsidiary organizations, Ambassador College and Ambassador International Cultural Foundation, in numerous legal and other matters.

(4) I am also a graduate of the Church's theological and ministerial school, Ambassador College, and thoroughly knowledgeable of the ecclesiastical doctrines, teachings, customs and practices of the Church.

(5) I also serve as Secretary of the Worldwide Church of God, Ambassador College and Ambassador International Cultural Foundation.

(6)

(a) I am personally acquainted with Robert L. Kuhn and knowledgeable of his association with the Worldwide Church of God and its affiliated organizations. Dr. Kuhn in the past served as personal assistant to the Executive Vice President of the Worldwide Church of God, as Executive Assistant to the President of Ambassador College and as an Executive Director of the

Ambassador International Cultural Foundation. He also served as a director of the Worldwide Church of God, Ambassador College and Ambassador International Cultural Foundation.

(b) I am personally acquainted with C. Wayne Cole and knowledgeable of his association with the Worldwide Church of God and its affiliated organizations. Mr. Cole in the past served as Director of Pastoral Administration from 1974 to 1976 when he was transferred to Canada to serve as Director of the Canadian Office. He served in this capacity until he was transferred to Pasadena, California, in April, 1978, where he again served as Director of Pastoral Administration until January, 1979.

(c) I am personally acquainted with David L. Antion and knowledgeable of his association with the Worldwide Church of God and its affiliated organizations. Mr. Antion in the past served as Director of Pastoral Administration from 1972 to 1974. In September of 1976, he was made Director of College Relations until the Spring of 1978. During this time he also served as Pastor of the Auditorium A.M. Headquarters congregation and taught theology classes at the College.

(7) In their position and in the course and scope of their employment they had access to and received private, internal, confidential, ecclesiastical, financial and sensitive Church and ministerial related documents belonging to the Worldwide Church of God and its subsidiary organizations.

(8) I have been informed and believe that Robert L. Kuhn, C. Wayne Cole or David L. Antion have possession,

custody and control of certain documents set forth in Exhibit A. Further, I have been informed and believe that the Attorney General is demanding the opportunity to inspect and copy all of said documents.

(9) I have cursorily reviewed the documents and the inventory of the same, a copy of the inventory is marked "Exhibit A," attached and incorporated herein and made a part hereof as though fully set forth.

In my opinion, such documents are properly, legally and theologically, described by the following three categorical headings:

I. Financial, Internal, Confidential, Religious Documents of the Worldwide Church of God, Inc. (WWCG), Ambassador College (AC) and Ambassador International Cultural Foundation (AICF).

II. Religious, Internal, Confidential Documents of the Worldwide Church of God, Inc. (WWCG), Ambassador College (AC) and Ambassador International Cultural Foundation (AICF).

III. Miscellaneous Documents.

(10) The documents described under Roman numerals I and II in Exhibit A have never been generally disseminated to the public.

Further, it is my opinion that the following numbered documents described in Exhibit A also fall within the attorney-client privilege: 116, 186, 188, 195, 196, 197, 199, 200, 201, 203, 204 and 205.

(11) As an attorney who has had many years of training and experience involving church-state related matters, it is my opinion that the Attorney General has no jurisdiction whatsoever to obtain these documents, that any order grant-

ing to the Attorney General the right to obtain, inspect and copy said documents would be in violation of (a) the prohibition against State involvement and entanglement in religious affairs, (b) the prohibition against state action which has a chilling effect on the free exercise of religion on the part of the Worldwide Church of God, its subsidiary organizations, and of the members and affiliates.

(12) This affidavit is also intended to serve as notice to the Attorney General, any of his deputies or agents and any and all other persons who have possession, custody or control of the documents described in Exhibit A to the effect that it is hereby demanded that they not deliver or otherwise disclose said documents or their contents to any other person or organization other than the Worldwide Church of God, Ambassador College, or Ambassador International Cultural Foundation, respectfully, or the agent duly authorized by them. That in the event said documents are delivered or otherwise exhibited to any other person or organization or in the event the Attorney General, his deputies or agents review said documents, appropriate legal action will be taken for violation of the rights herein set forth and any other rights the Worldwide Church of God, Ambassador College or Ambassador International Cultural Foundation, its officers, directors, employees or affiliates may possess.

Executed this 20th day of August, 1979, at Pasadena, California.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ RALPH K. HELGE
RALPH K. HELGE

I. FINANCIAL, INTERNAL, CONFIDENTIAL, RELIGIOUS DOCUMENTS OF THE WORLDWIDE CHURCH OF GOD, INC. (WWCG), AMBASSADOR COLLEGE (AC) AND AMBASSADOR INTERNATIONAL CULTURAL FOUNDATION (AICF).

Kuhn

1. AC internal expenditure report on special projects and grants for the period 1/1/70—12/31/73, dated 2/20/74
2. Letter from City of Pasadena, Assessor to Dr. Kuhn, dated 9/3/74 re real property appraisal
3. Internal memo from Sherwin McMichael to Garner Ted Armstrong, dated 4/15/75, re financial evaluation of AC campuses, the college's relationship to the church, and certain ministerial and faculty personnel matters
4. AICF Internal Preliminary Financial Report for the period 5/75-4/76
5. AC-WWCG Internal Financial Report dated 12/14/76
6. Internal Summary of Major Media Financial Activities, dated 3/14/76
7. Internal Projected Cash Flow for AC and WWCG for period 3/76-8/76
8. Internal Memo from Stanley R. Rader to Garner Ted Armstrong, dated 12/21/76, re Falcon Aircraft Leases
9. Internal Cash Investments Summary for 76/77 dated 5/10/77

10. Internal Preliminary Financial Report for AICF/WWCG for the period 5/1/75 to 2/29/76
11. Internal AICF Telex from Henry Cornwall to Stanley R. Rader, dated 10/27/76, re a complete update on all aspects of Quest/77
12. Internal Cash Receipts and Disbursements Report for AC/WWCG for 6/1/75-2/29/76, dated 3/5/76
13. Internal projected cash receipts and disbursements report for AC/WWCG for the 6 months period of 3/76-8/76
14. Internal Financial Income Comparison of AC/WWCG for the period ending 12/17/76, dated 12/20/76
15. Combined AC/WWCG Monday Morning Financial Report, dated 12/20/76
16. Internal memo from Dennis Stauffer to Ray Wright, dated 12/20/76 re AC/WWCG bank balances
17. Internal Financial Income Comparison of the WWCG for Monday 12/20/76
18. Internal memo from Ray Wright & Dr. Kuhn to Garner Ted Armstrong, dated 4/25/77 re suggested budget reductions
19. Internal memo from Ray Wright to Garner Ted Armstrong, dated 8/11/77, re AC 5-year allocation study
20. An internal note re computer service to AC, dated 9/16/77, with no author noted
21. AC Internal Campus Planning Study, dated 10/24/77

22. Internal financial study of Big Sandy campus, dated 11/77
23. Internal 25-year financial study of WWCG, dated 11/77
24. Internal cash flow memo from Glen Parker to unknown individuals, dated 11/3/77
25. Internal memo from Ed Bodo to Ray Wright criticing Glen Parker's Quest accounting study
26. Internal financial study comparing costs of operating various sized AC programs, prepared for President Armstrong, dated 12/14/77
27. Internal financial cost analysis of Quest/77, dated 12/31/77 and prepared by the Cost Accounting Section
28. Internal financial AC/WWCG general services allocation re AICF for 1977
29. Internal financial document projecting AC/WWCG revenues and summarizing the budget for 77 to 78
30. Internal financial cash flow record for WWCG for period 77-78, dated 1/17/78
31. Internal memo from Stanley R. Rader to Garner Ted Armstrong, dated 2/2/78, re financial commitment to Quest
32. Internal financial document comparing the income of 1976 to 1977 for WWCG, dated 1/9/78
33. Internal memo from Ray Wright to Stanley R. Rader, dated 1/18/78 re cash flow

34. Internal memo from Garner Ted Armstrong to Stanley R. Rader, dated 2/1/78, re Stanley R. Rader's employment contract
35. Internal memo from Publishing to Stanley R. Rader, dated 11/3/78, re non-direct mail promotion of Quest/78, including financial backup
36. Copies of Dr. Kuhn's annual receipts for contributions to WWCG
37. Internal memo from Stanley R. Rader to Ray Wright, date unreadable (12/13/??) re professional audit standards as relates to J. Kessler's firm
38. Internal financial document suggesting budgetary reductions, undated
39. Internal financial document explaining AICF financing and ticketing procedure, undated and unsigned
40. Internal memo from Stanley R. Rader to Garner Ted Armstrong with unreadable date (12/13/??) re Henry Cornwall as CPA and Business Manager

Antion

41. Internal memo from Jack McKinney to Jim Johnson, deputy controller, 12/7/73, regarding 1974 budget revisions
42. Internal memo from the Church Administration Department to Jim Johnson, deputy controller, dated 12/7/73, regarding the impact of budget cuts
43. Internal memo from George Geis to Frank Brown, secretary-treasurer, dated 12/10/73, regarding the tuition schedule for Imperial Schools

44. Internal preliminary budget summary of AC and WWCG for 1974 prepared by the financial staff and submitted to Frank Brown, dated 12/10/78
45. Internal schedule of discretionary items for the AC-WWCG 1974 unapproved budget plan, dated 12/10/73
46. Internal budget summary by functions of AC, WWCG for calendar years 1973-74, dated 12/10/73
47. Internal memo from J. D. Carruthers to all faculty members, dated 4/23/76, regarding faculty promotion policies
48. Internal fact sheet on financial aids to students, dated 9/20/76
49. Internal financial aid application for international students at AC, undated
50. Internal confidential listing of employees of the College Relations Department, dated 12/14/77
51. Internal confidential listing of employees for the College Relations Department, dated 1/16/78
52. Internal confidential listing of employees for the College Relations Department, dated 1/16/78 (not a duplicate of item 51)

Cole

53. Internal financial report of expenditures for Pastor General Department, including the period 7/1/75 to 6/30/76 prepared by the Accounting Department and dated 7/6/76
54. Internal financial statements of Ambassador College for the year ended 12/31/76, dated 3/25/77

55. An internal financial report showing U.S. income, membership and Plain Truth circulation since 1955 and prepared in 1978, author unknown

II. RELIGIOUS, INTERNAL, CONFIDENTIAL DOCUMENTS OF THE WORLDWIDE CHURCH OF GOD, INC. (WWCG), AMBASSADOR COLLEGE (AC) AND AMBASSADOR INTERNATIONAL CULTURAL FOUNDATION (AICF).

Kuhn

56. Internal memo from Dr. Kuhn to Garner Ted Armstrong, date 5/21/71 re Plain Truth article
57. Internal memo from Dr. Kuhn to Frank Brown, dated 6/23/71, re literature attacking the teachings of the Church
58. Internal memo from Garner Ted Armstrong to Herbert W. Armstrong, dated 6/28/73 re internal ministerial and spiritual decisions

58a. Letter from J. Kessler to H. Cornwall, dated 12/20/76

59. Internal memo from Herbert W. Armstrong to Garner Ted Armstrong, dated 7/1/73, re internal personnel and spiritual decisions related to No. 58
60. Internal memo from John Hill to Garner Ted Armstrong, dated 7/10/73, re spiritual and other qualifications for the job of Senior Editor of the Good News magazine
61. An anonymous letter to Mr. Garner Ted Armstrong, undated, expressing support for the church during spiritual trial

62. Letter from Dr. Kuhn to Martin Bernheimer of L.A. Times, dated 1/2/75 re aim and function of WWCG, AC, AICF
63. Internal memo from Herbert W. Armstrong to Garner Ted Armstrong, dated 3/7/75, re expressing the need for good communication between them and God
64. Internal memo from Stanley R. Rader to Garner Ted Armstrong dated 4/29/75, re explaining the development of AICF as it relates to the church
65. Internal memo to Garner Ted Armstrong, unsigned, dated 9/8/75, re Osamu Gotoh
66. Internal memo from an anonymous group of "WCG" to Tony Hammer, dated 3/16/76, expressing spiritual and doctrinal questions
67. Internal memo from Dr. Kuhn to contributors to Systematic Theology Project dated 6/1/76 explaining assignments
68. Internal document explaining the purpose of Quest magazine, relating it to the commission of the church, dated 6/3/76
69. Internal memo from Stanley R. Rader to Dr. Kuhn, dated 8/27/76, re personnel structure in AICF
70. Internal memo from Dr. Kuhn to Roderick Meredith, dated 8/30/76, explaining his spiritual viewpoint on various matters
71. Internal memo from Ray Wright to Stanley R. Rader, dated 9/21/76, marked confidential regarding termination of an employee

72. Two copies of internal telex from Herbert W. Armstrong to Stanley R. Rader, undated, re personnel matters, one of which is the termination referred to in 71.

73. Internal memo from Stanley R. Rader to Garner Ted Armstrong, dated 12/21/76, re the state of the work

74. Internal memo from Stanley R. Rader to Garner Ted Armstrong, dated 12/22/76, re reorganization of the field ministry

75. Internal transcript of Mr. Rader's remarks at an all employee meeting 1/18/77

76. Telex to Bob Kuhn from Frank Schnee, dated 3/6/77, re Mr. Armstrong's opportunity to preach the Gospel in Persia

77. Letter from John Ebinger to Stanley R. Rader, dated 3/14/77, re the doctrinal advisability of liquor advertising in Quest

78. An internal draft on the doctrine of healing, dated 4/20/77, apparently prepared by Garner Ted Armstrong

79. Internal memo from Stanley R. Rader to Dr. Kuhn, dated 4/21/77, re accreditation

80. Internal memo from R. Kuhn to Stanley R. Rader, dated 4/21/77, re personnel matters as they relate to accreditation

81. An internal draft regarding the advisability of local church buildings dated 10/9/77, prepared by R. Kuhn

82. Internal memo from Stanley R. Rader to Dr. Kuhn, dated 10/17/77, re leadership of the work

83. Internal memo from Garner Ted Armstrong to Stanley R. Rader, dated 10/28/77, re doctrinal matters and support of the work

84. Internal memo from Garner Ted Armstrong to Stanley R. Rader, dated 11/11/77, re personal misunderstanding between them

85. A copy of an envelope and a sarcastic letter made to appear like one of Mr. Armstrong's letters to the brethren, dated 11/30/77, sent to us by a church member showing that someone else was making use of our church logo

86. Internal memo from Garner Ted Armstrong to Stanley R. Rader, dated 11/17/77, re personnel changes

87. Internal memo from Stanley R. Rader to Garner Ted Armstrong, dated 12/8/77, re personnel changes

88. Internal memo from Stanley R. Rader to Garner Ted Armstrong, dated 12/10/77, re personnel changes

89. Memo from H. Cornwall to Herbert W. Armstrong, dated 1/18/78, re his relationship to the church

90. Internal memo from R. Kuhn to Garner Ted Armstrong, dated 1/30/78, re purpose and objectives of AC as it relates to the church

91. Internal memo from Garner Ted Armstrong to Stanley R. Rader, dated 2/2/78, re employment contracts

92. Internal draft of an agreement of settlement and mutual release between Worldwide Advertising and WWCG, dated 2/23/78

93. Internal memo from Garner Ted Armstrong to Herbert W. Armstrong, dated 5/4/78, re personnel

changes and Garner Ted Armstrong's line of authority in the church

94. Page proofs of the booklet "The Doctrines of the Worldwide Church of God" which has never been published. The page proofs carry a date of 5/9/78

95. Internal memo from Wayne Cole to Herbert W. Armstrong, dated 5/18/78, re recommendations for the school of ministerial and biblical studies

96. Internal memo from Garner Ted Armstrong to Ray Wright, dated 5/20/78, re various internal personnel and organizational matters

97. Internal memo from Garner Ted Armstrong to Herbert W. Armstrong, dated 5/20/78, re the sale of the Big Sandy campus and other organizational matters

98. Internal memo from Garner Ted Armstrong to Herbert W. Armstrong, dated 5/26/78, re his acceptance of certain decisions by his father as to duties in the church

99. Internal memo from Stanley R. Rader to Garner Ted Armstrong, dated 6/9/78, re rumors about Stanley R. Rader

100. Internal memo from R. Kuhn to Herbert W. Armstrong, dated 6/25/78, re explaining the history and purpose of Systematic Theology Project

101. Internal memo from Stanley R. Rader to Ray Wright, dated 6/30/78, re church involvement with Quest/78

102. Internal memo from R. Kuhn to Herbert W. Armstrong, dated 7/14/78, re Kuhn's responsibilities in the church

103. Internal memo from Dr. Kuhn to Stanley R. Rader, dated 8/17/78, re suggestions of personnel changes to coordinate the media effort

104. Internal memo from Dr. Kuhn to Rod Mcredith, dated 7/14/78, re Dr. Kuhn's responsibilities in the church

105. Internal memo from Dr. Kuhn to Stanley R. Rader, dated 8/17/78, re personnel suggestions leading to a work-wide team

106. Internal memo from B. Schippert to Dr. Kuhn, dated 8/25/78, re the Church's Outreach program

107. Internal memo from Stanley R. Rader/Robert L. Kuhn to Herbert W. Armstrong, dated 8/31/78, re media and subscriber analysis showing what built the church

108. Internal memo from R. Kuhn to Stanley R. Rader, dated 9/21/78, re book *The Real Jesus*

109. Internal memo from R. Kuhn to Herbert W. Armstrong, dated 11/2/78, re responsibility for the Systematic Theology Project

110. Internal memo from R. Kuhn to Herbert W. Armstrong, dated 11/2/78, re responsibility for Systematic Theology Project (nearly identical to No. 109)

111. Internal memo from R. Kuhn to Stanley R. Rader, dated 11/3/78, re Plain Truth on television

112. Internal memo from Stanley R. Rader to R. Kuhn, dated 11/6/78, re Systematic Theology Project

113. A copy of the first page of the church's internal *Pastor's Report* dated 11/8/78, re How Christ Gives the Church Its Doctrines

114. Internal memo from Walter Rupp to R. Kuhn, dated 12/4/78, re the German-language work

115. A copy of the first page of the church's internal *Pastor's Report* dated 12/27/78, re Kessler's accounting firm and ministerial changes

116. Internal memo from G. Warner to Ralph K. Helge, dated 1/7/79, re Kuhn's termination (attorney-client privileged communication)

117. Memo from "The Coalition for Student Rights" to Ron Kelly re AC policies, undated

118. Internal memo from Stanley R. Rader to Garner Ted Armstrong (undated), re personnel matters

119. Internal draft of a letter from Herbert W. Armstrong to the membership of the church (undated) re his health

120. Draft of an administrative announcement by Herbert W. Armstrong regarding personnel changes (undated)

121. Draft explaining the purpose of the Systematic Theology Project study on healing. It is undated and the author is unknown

122. Draft summary of the Systematic Theology Project healing paper, undated. The author is unknown

123. Internal draft of letter from Garner Ted Armstrong to unnamed individuals, possibly the membership, undated

124. Internal draft of a policy statement by Herbert W. Armstrong regarding the School of Biblical and Ministerial Studies, undated

125. Internal draft of the outline of the Systematic Theology Project, undated and author unknown

126. Undecipherable telex Jan, 1975 re AICF concert series

127. Letter from J. Bistritzky of Arthur Rubinstein Int'l Piano Master Competition to Maestro Carlo Zecchi dated 4/6/75 re AICF

128. Similar letter to Dr. Kuhn dated 4/17/75

129. Letter in French from J. Bistritzky to Maestro Arturo Benedetti Michelangeli re the same matter as 127 and 128

130. Letter from J. Walter Thompson Co. to Dr. Kuhn dated 4/22/76 re an original Jacob Lawrence work commissioned

131. Internal memo from Art Mokarow to Dr. Kuhn, dated 10/27/76, giving the itinerary for the Milwaukee concert

132. Telex from Pat Sprouse to Mr. Rader, dated 11/4/76, re itinerary for the Milwaukee concert

133. Letter from Universal Press Syndicate to Dr. Kuhn, dated 2/25/77, re commencement of contractual relationship

134. Letter from Tom Murdock, New Life Int'l to Garner Ted Armstrong, dated 7/8/77, re purchase of Big Sandy

135. Same as No. 134, dated July 19, 1977

136. Letter from Terry Dintenfass to Dr. Kuhn, dated 1/4/78, re a painting exhibition

137. Letter from Spelman College to Dr. Kuhn, dated 1/17/78, re exhibit Mr. Lawrence's painting

138. Letter from Dr. Kuhn to Dr. Kay Andersen, dated 6/7/78 re AC new Biblical Studies program

Antion

139. Index of periodical subscriptions of Ambassador College library, dated 6/72

140. Curriculum of the Department of Business and Economics revised as of 9/76

141. Business Administration major checklist and accounting option for the 1977-78 catalog, dated 9/76

142. Internal agenda of faculty meeting of 10/17/74

143. Notification of visit by Accreditation Committee, dated 10/23/74

144. Internal memo from Personnel Department to all employees, dated 7/7/75, regarding the procedures for handling work related injuries

145. Internal agenda of faculty meeting of 11/13/75

146. Internal agenda of the administrative council meeting of 12/10/75

147. Internal summary of the 5-year plan for behavioral studies at AC, dated 3/31/76

148. Internal agenda of the faculty meeting of 4/29/76

149. Internal agenda of the curriculum meeting of 8/25/76

150. Internal agenda of the curriculum meeting of 9/1/76

151. Internal agenda of the curriculum meeting of 9/21/76

152. Internal preliminary draft of the institutional self-study report, dated 11/76

153. Institutional Self-Study Report, dated 11/76

154. Internal 5-year plan for behavioral studies, AC, dated 12/10/76

155. Internal draft of letter from Garner Ted Armstrong to the membership of the church, dated 12/17/76, regarding the relationship of AC to the Church

156. Internal agenda of the Curriculum Committee meeting of 1/11/77

157. Internal personnel bulletin of 2/16/77 regarding employee health care procedures

158. Internal 5-year plan of behavioral studies at AC, dated 2/22/77

159. Internal mail summary for the week ending 2/25/77

160. Internal agenda of faculty meeting of 4/21/77

161. Letter from Anderson of WASP to Garner Ted Armstrong regarding urgent accreditation problems, dated 7/21/77

162. Internal agenda of faculty meeting of 9/1/77

163. Internal draft of a proposed recruitment plan for 77-78, dated 9/15/77, author unknown but typed on David Antion's college stationery

164. Employee salary status change, dated 12/26/77

165. Internal draft of faculty procedures and responsibilities prepared by the Vice President for Academic Affairs and carrying various approval dates through 12/77

166. Internal memo from Garner Ted Armstrong to all employees, dated 01/3/78, regarding tithing policy

167. Internal employee termination clearance, dated 3/3/78

168. Internal employee termination statement, dated 3/10/78

169. Internal memo from the Executive Board of Trustees to all full-time faculty, dated 4/11/78, regarding the transfer of faculty members to Big Sandy

170. Internal memo from Dibar Apartian to Garner Ted Armstrong, dated 4/11/78, regarding the French ministry

171. Internal memo from Garner Ted Armstrong to Dibar Apartian, dated 4/25/78, regarding the French ministry

172. Internal memo from David Antion to Herbert W. Armstrong, dated 7/7/78, regarding difficulties in Mr. Antion's ministerial responsibilities

173. Internal memo from David Antion to Herbert W. Armstrong, dated 8/7/78, regarding Mr. Antion's removal from teaching at AC

174. Copy of the internal Pastors Report, dated 10/3/78, covering various ministerial and administrative matters

175. Internal memo from David Antion to Herbert W. Armstrong, dated 2/20/79, regarding Mr. Antion's possible reinstatement to the ministry

176. Internal personnel policy regarding travel, undated

177. Copy of internal personnel policy regarding moving, undated

178. Copy of internal employee termination form, undated

179. Copy of internal employee hiring-clearance form, undated

180. Copy of internal employee status/payroll change form, undated

181. Internal doctrinal committee distribution list, undated

182. Internal draft of Church Festival Procedure, undated

183. Internal list of Board of Trustees, undated

Cole

184. Copies of Mr. Cole's W-2 forms from 1970 through 1978

185. Internal memo from Mr. Cole to all ministers, dated 11/25/76 regarding a major change in editorial policy for the Church

186. Internal memo from Ralph K. Helge to Mr. Cole, dated 1/17/77 regarding power of attorney to conduct the work of the Church in Canada (attorney-client privileged communication)

187. Internal memo from Wayne Cole to Charles Bryce (minister) dated 1/31/77, enclosing a copy of a letter, same date, he wrote to another minister regarding difficulties with someone in the congregation

188. An internal memo from Ralph K. Helge to C. Wayne Cole, dated 2/2/77 regarding authority to use Church's bank account in Canada (attorney-client privileged communication)

189. An internal policy document dated 3/16/77 regarding reasons for termination of faculty, author unknown

190. Telex from Mr. Cole to Mr. McCullough, dated 3/19/77, regarding organization of the French work

191. A telex from J. Kessler, dated 5/25/77, regarding changes in the law affecting foreign source income

192. Internal memo from Wayne Cole to the Canadian ministers, dated 6/9/77, regarding Church Festival assistance

193. Copy of a letter from Mr. Cole to the membership in Canada, dated 5/30/77, regarding Church Festival

194. Internal memo from Stanley Rader to Church Directors, dated 7/5/77 announcing an annual meeting

195. Internal memo from Ralph K. Helge to Wayne Cole, dated 7/18/77, forwarding a copy of the minutes of the Board meeting of 7/12/77 (attorney-client privileged communication)

196. Internal memo from Ralph K. Helge to Wayne Cole, dated 8/5/77, forwarding a resolution for Mr. Cole's signature regarding purchase of the Falcon (attorney-client privileged communication)

197. Internal memo from Ralph K. Helge to Wayne Cole, dated 8/18/77, regarding a resolution for purchase of the Falcon (attorney-client privileged communication)

198. Internal memo from Stanley R. Rader to the Board of Trustees, dated 9/14/77, calling a Board meeting

199. Internal memo from Ralph K. Helge to Herbert W. Armstrong dated 9/16/77, regarding a resolution of

indemnification in the Soll case (attorney-client privileged communication)

200. Internal memo from Wayne Cole to Ralph K. Helge, dated 12/16/77, requesting a renewal of power of attorney for Mr. Cole to do the Church's work in Canada (attorney-client privileged communication)

201. Internal memo from Ralph K. Helge to Wayne Cole, dated 2/20/78, forwarding resolutions regarding changes in the Board of Directors (attorney-client privileged communication)

202. Internal memo from James Stark, Business Manager, AC, to Wayne Cole, dated 3/1/78, forwarding some suggested organizational and policy changes for AC

203. Internal memo from Ralph K. Helge to Wayne Cole, dated 3/28/78, regarding auditors (attorney-client privileged communication)

204. Internal memo from Ralph K. Helge to Herbert W. Armstrong, dated 4/21/78, forwarding resolutions of the Board of Directors of WWCG (attorney-client privileged communication)

205. Internal memo from Ralph K. Helge to Herbert W. Armstrong, dated 4/21/78, forwarding resolutions regarding AC (attorney-client privileged communication)

206. Internal memo from Herbert W. Armstrong to Garner Ted Armstrong, dated 5/1/78, regarding organization of the Church and College

207. Internal memo from Herbert W. Armstrong to Garner Ted Armstrong, dated 5/1/78, regarding organi-

zational structure of AC and the Church and related to the subject matter of 206

208. Internal memo from Wayne Cole to Herbert W. Armstrong dated 5/5/78, regarding ministerial development and training

209. Internal policy statement by Herbert W. Armstrong, dated 5/11/78, announcing organizational changes discussed in documents 206 and 207

210. Internal memo from Wayne Cole and Ray Wright to Herbert W. Armstrong, dated 5/16/78, regarding ministerial organizational changes in the international work (two versions of the same memo—one may be a draft)

211. Internal memo from Richard Rice to Ray Wright, dated 5/24/78 regarding factors affecting decreased growth pattern in the work and Church

212. Internal memo from Ray Wright to Wayne Cole, dated 5/25/78, forwarding copies of previously published letters by Mr. Armstrong on the subject of secular approach to religious message

213. Internal memo from Dibar Apartian to Wayne Cole, dated 6/2/78, regarding recommendations about the work of the Church in the French language

214. Internal memo from Herbert W. Armstrong to Garner Ted Armstrong, dated 6/8/78, placing Garner Ted Armstrong on a leave of absence for spiritual reasons

215. Internal memo from Herbert W. Armstrong to all ministers, dated 6/14/78, announcing Garner Ted Armstrong's leave of absence

216. Internal memo from Herbert W. Armstrong to the top administrative team, dated 6/23/78, regarding Garner Ted Armstrong's leave of absence and organizational changes in the Church as a result

217. Internal memo from Herbert W. Armstrong to Dr. Wainwright, dated 6/23/78, regarding organizational changes in the ministry of the French work

218. Internal memo from Herbert W. Armstrong to Garner Ted Armstrong, dated 6/26/78, disfellowshipping Garner Ted Armstrong

219. Internal memo from Wayne Cole and Robert Kuhn to Herbert W. Armstrong, dated 6/27/78 regarding re-establishment of proper spiritual priorities in ministerial training program of the College

220. Internal memo from Wayne Cole to Herbert W. Armstrong, dated 6/27/78, regarding the response to Mr. Armstrong's sermon

221. Internal memo from Wayne Cole to all ministers, dated 6/28/78, exhorting the ministry in their spiritual responsibilities

222. Internal memo from Herbert W. Armstrong to Garner Ted Armstrong, dated 6/29/78, regarding retirement status

223. Internal memo from Wayne Cole to Raymond McNair, dated 7/2/78, regarding cooperation between them in their spiritual duties

224. Internal policy statement, dated 7/2/73 (this date is correct), regarding disagreements with other individuals in the Media Division. This document appears

to have been an attachment, or reference material, used in preparing item 223

225. Internal memo from Wayne Cole to Herbert W. Armstrong, dated 7/3/78, informing Mr. Armstrong and the matters of disagreement mentioned in memo 223

226. Internal memo from Wayne Cole to Raymond McNair, dated 7/5/78, another longer version of 223

227. Internal memo from Wayne Cole to Raymond McNair, dated 7/5/78, a large-type version of No. 226, probably intended as a copy to Herbert W. Armstrong but apparently not sent

228. Internal memo from Wayne Cole to Herbert W. Armstrong, dated 7/6/78, regarding divisions within the ministry of the Church

229. Internal memo from Dr. Kuhn to Raymond McNair and Rod Meredith, dated 7/10/78, congratulating them on their appointments

230. Internal memo from Robert Kuhn to Dr. Meredith, dated 4/17/78, regarding possible disagreements between the two pertaining to Church matters

231. Internal memo from Robert Kuhn to Herbert W. Armstrong, dated 4/17/78, bringing Mr. Armstrong up to date on the same matter as No. 230

232. Internal memo from Wayne Cole to Raymond McNair, dated 7/6/78, regarding concerns about several major areas of the Church

233. Internal memo from David Antion to Herbert W. Armstrong, dated 7/14/78, regarding what the Bible has to say about false witnesses

234. Internal memo from Ron Lohr to Wayne Cole, dated 7/16/78, regarding organizational matters in the Florida area of the Church

235. Internal memo from Stan Bass to Wayne Cole, dated 7/17/78, regarding the condition of the churches in the Caribbean area

236. Internal memo from Bob Smith to Wayne Cole, dated 7/18/78, expressing his respect and support to Mr. Cole in his responsibilities in the ministry

237. Internal memo from Norman A. Smith to Wayne Cole, dated 7/19/78, regarding the condition of the churches in the northern California area

238. Internal memo from John Ogwyn to Wayne Cole, dated 7/21/78, regarding the state of the churches in South Texas

239. Internal memo from Larry Neff (minister of the Tucson Church) to Wayne Cole, dated 7/21/78, regarding ministerial policies

240. Internal memo from Hal Baird (minister) to Wayne Cole, dated 7/21/78, regarding the ministry of the church

241. Internal memo from Ed Smith to Wayne Cole, dated 8/22/78, regarding the state of the churches in the Cincinnati area

242. Internal memo from Norman Smith to Herbert W. Armstrong, dated 8/27/78, regarding the condition of the churches in Northern California and the Pacific Northwest

243. Internal memo from Ed Smith to Herbert W. Armstrong, dated 8/31/78, summarizing his ministry and support for Mr. Herbert W. Armstrong

244. Internal memo from Jack Pyle to Herbert W. Armstrong, dated 8/31/78, regarding the healing and faith doctrines

245. Internal memo from Jack Pyle to Wayne Cole, dated 9/1/78, regarding problems in the ministry

246. Internal memo from Ed Smith to Herbert W. Armstrong, dated 9/1/78, regarding the condition of the Cincinnati area churches

247. Internal memo from Dennis Pyle to Herbert W. Armstrong, dated 9/1/78, regarding the condition of the churches in the Kansas City area

248. Internal memo from John Hammer to an unnamed addressee, dated 9/1/78, regarding the status of the churches in the Nashville area

249. Internal memo from Norman Smith to Herbert W. Armstrong, dated 9/4/78, regarding the state of the churches in the Sacramento area

250. Internal memo from Carl McNair to Herbert W. Armstrong, dated 9/4/78, regarding the state of the churches in the Minneapolis area

251. Internal memo from Paul Flatt to Herbert W. Armstrong, dated 9/5/78, regarding the state of the churches in the Atlanta area

252. Internal memo from Burk McNair to Herbert W. Armstrong, dated 9/5/78, regarding the state of the churches in the Charlotte, North Carolina area

253. Internal memo from Elbert Atlas to Herbert W. Armstrong, dated 9/5/78, regarding the state of the churches in the New York area

254. Internal memo from Guy Englebart to Herbert W. Armstrong, dated 9/6/78, regarding the state of the churches in the Cleveland area

255. Internal memo from Dean Wilson to Wayne Cole, dated 9/7/78, regarding the state of the churches in Australia

256. Internal memo from Wayne Cole to Herbert W. Armstrong, dated 9/7/78, regarding book publishing as an integral part of the church's commission

257. Internal memo from Wayne Freeman to Herbert W. Armstrong, dated 9/14/78, regarding Mr. Freeman's ministry and the ministry of the church in general

258. Internal memo from Steve Martin to Herbert W. Armstrong, dated 9/19/78, regarding the state of the churches in the Pasadena area

259. Internal memo from Tony Hammer to Wayne Cole, dated 9/19/78, regarding Mr. Hammer's ministry

260. Internal memo from Wayne Cole to Herbert W. Armstrong, dated 9/19/78, regarding the effects of Garner Ted Armstrong's activities on the churches

261. Internal memo from Cordull Hull to Bob Fahey, dated 11/14/78, regarding some top ministers in the organization of the church

262. Internal memo from Paul Kurtz to Wayne Cole, dated 9/15/78, regarding the ministry to prisoners

263. Internal memo from Wayne Cole to Stan Rader, dated 11/20/78, regarding a ministerial personnel change

264. Internal memo from Stan Rader to Herbert W. Armstrong, dated 11/22/78, regarding the ministerial personnel change mentioned in 263

265. Internal memo from Wayne Cole to the ministry (and its prior draft), dated 11/22/78, regarding the importance of the Foundation to the commission of the Church

266. Internal memo from Colin Adair to Wayne Cole, dated 12/4/78, regarding the state of the churches in the Philippines

267. Internal memo from Martin Bode to Wayne Cole, dated 12/8/78, regarding the state of the churches in Germany

268. Internal memo from Wayne Cole to Herbert W. Armstrong, dated 12/27/78, regarding Stanley R. Rader's status in the church

269. Internal draft of a press release by Herbert W. Armstrong, dated 1/3/79, regarding C. Wayne Cole

270. Internal draft of press release from Wayne Cole, dated 1/4/79, regarding cooperation with the Attorney General's office

271. Internal memo from Wayne Cole to all employees, dated 1/4/79, regarding spiritual responsibilities of the employees to cooperate with the state

272. Mailgram from Wayne Cole to all ministers, dated 1/4/79, summarizing the event of 1/3/79 and forwarding copies of items 269 and 270

273. Mailgram from Herbert W. Armstrong to the ministry worldwide, dated 1/5/79, rescinding Mr. Cole's appointment as acting chief executive officer

274. Internal memo from Wayne Cole to Rod Meredith, dated 1/9/79, expressing Mr. Cole's support of Mr. Meredith

275. Internal notes by Mr. Antion for use in a meeting with Herbert W. Armstrong on the advantages of a center for marriage and the family, undated

276. Internal draft of a memo from Stan Rader to unnamed persons regarding salaries of Mrs. Herbert W. Armstrong and distribution of a portion of Mr. Rader's salary to his wife, undated

III. Miscellaneous Documents

Kuhn

277. Letter from Dr. Kuhn to the Religion Editor of World Almanac dated April 21, 1978 providing information on the church for publication

278. Two copies of Ambassador College catalog for the diploma in Biblical Studies program

279. One copy of Ambassador College catalog for a certificate of the ministry

280. One copy of AC catalog for Master of Arts in Religious Studies

281. S.Ct. 78-1720—Petitioners' reply to Attorney General's response to application for stay of receivership

Appendix X—Helge Declaration

282. Letter from Robert L. Kuhn to Lawrence Tapper, dated Jan. 8, 1979 forwarding Dr. Kuhn's disfellowship letter to Mr. Tapper

283. Letter from Steven Andrews to Dr. Kuhn, dated 3/15/79, re items belonging to the Church held in Dr. Kuhn's possession

284. Internal balance sheet for Environmental Plastics, dated 2/28/78

285. Internal memo from Ray Wright to Dr. Kuhn forwarding the financial statement for Environmental Plastics, dated 6/22/78

286. Letter from Jack Kessler to Ray Wright and Dr. Kuhn, dated 8/18/78, re auditing of Environmental Plastics

287. Reimbursement Agreement from Ray Wright to Dr. Kuhn re Environmental Plastics

288. Security Agreement to WWCG from Dr. Kuhn, dated dated 10/9/78 transferring 25 shares of Environmental Plastics

289. Memo from Robert Kuhn to Ray Wright resigning as a member of the board of directors of Environmental Plastics, dated 3/29/79

290. Internal memo from Dr. Kuhn to Bernard Soll, dated 9/10/75, re record cabinet storage

291. Agreement between Dr. Kuhn and Ray Wright, dated 3/29/79, transferring Dr. Kuhn's stock in Environmental Plastics to Ray Wright

292. Copies of telephone bills for Dr. Kuhn, dated 5/18/79

Appendix X—Helge Declaration

293. Internal report summarizing Quest subscriptions from 7/78 to 6/79, dated 10/79

294. Copies of Dr. Kuhn's W-2 forms

295.) Four financial statements for Ocean Life Magazine

296.) and Music Magazine (may be personal documents

297.) used by Dr. Kuhn)

298.)

Antion

299. Copy of AC News (an alumni newsletter), dated 4/78

300. Letter from Judge Weisman, receiver, to Herbert W. Armstrong, dated 1/18/79, eliciting cooperation between the two

301. Financial aid application for students from foreign countries, copyright 1976 by the College Entrance Examination Board, apparently used in conjunction with item 66

302. Copies of Mr. Antion's W-2 forms for 1977 and 1978

Cole

303. Copy of the original complaint in the *People* v. *WCG*, dated 1/2/79

304. Memo from Mr. Cole to Mr. Chodos forwarding his personal notes regarding telephone calls with Herbert W. Armstrong, dated 1/29/79

305. Copy of subpoena duces tecum for Wayne Cole, dated 5/7/79

Appendix Y

Excerpts From Transcript of Taped Receivership Meeting (Filed January 4, 1979)

Reporter's transcript of proceedings taken from cassette tape of meeting re Receivership of Worldwide Church of God held at 12:00 o'clock noon January 4, 1979, at Pasadena, California.

(Unintelligible conversation sotto voce)

Judge Weisman: Good afternoon. I'm Judge Steven S. Weisman. I'm a retired Superior Court judge and have been appointed Receiver in this proceeding instituted by the Attorney General. Can you all hear me? I—I hate to start this meeting with what looked like a funeral procession, but I got this polio when I was 40 and I haven't been able to shake it. I want to explain to you why I'm here and what we're trying to do. And very briefly I want to read you a press release that was just received and handed to me by Mr. Cole, over the signature of Herbert Armstrong.

You see, whenever charitable funds are used, the user of those funds, whoever it is, is under the jurisdiction of the Attorney General of the state of California. They have some kind of control, because those receipts of charitable funds must be used for charitable purposes. And that makes sense.

Now, this is not what we call an adversary proceeding. This isn't John Doe vs. John Smith: who wins and who loses. What has happened is that the Attorney General, who is a disinterested third party, a law enforcement officer of the state, has filed this action. No individuals have filed this action. The Attorney General has filed this action, and their deputy, Mr. Tapper, is here; and also my own attorney, Mr. Clemens, is here. Mr. Tapper, would you rise, please, so they can identify you. And Mr. Clemens.

Ordinarily a Receiver is not appointed until there is adequate notice to both sides. But here there are no both sides. The Complaint merely wants an accounting. The Complaint says that there have been allegations that there has been a misuse of charitable funds. That's what the Attorney General claims. All the Complaint wants is access to the records to prove or disprove that. No damages are being sought. Nobody's suing the church. Nobody's out to get anybody.

Ordinarily a Receivership is not granted without notice, because, let's say you and I were in business together, and I owned half the business and you owned half of the business. Well, if you—if you ran out and got a Receiver, that Receiver would be taking my property away without notice to me. In this case nobody's taking any property. In fact, we're trying to save property. So it's not an adversary proceeding.

Our whole goal is to find out—the Attorney General wants to find out—if these allegations are true. If they're true, it ought to be stopped and controlled. If they're not true, there's no harm done, except for the publicity; I'll admit it's not good. But there would not have been the publicity that we had if we'd had cooperation, which we did not have until I gratefully received a call from Mr. Cole about a half hour ago. And I want to at this time read a statement that Mr. Cole read to me over the phone. I'm sure you all know Mr. Cole. Those who don't, raise your hands. (Laughter.)

This is a press release that he read to me. It's dated January 3rd, on the letterhead of the Worldwide Church of God. Press release: "I have been shocked beyond measure

to learn of the raid on our executive offices in Pasadena this morning initiated from the state of California Attorney General's office." Again, nobody's suing. The Attorney General wants to find out. "I know little of the facts as yet. The Worldwide Church of God and Ambassador College are both upstanding institutions, and we are people of integrity. If any improprieties have existed in either institution, I want them to be known, and I shall take every effort to cooperate with the Attorney General's office. We are an institution of 46 years' standing. We have many departments and branch offices around the world. We employ many hundreds. I have, of necessity, had to entrust responsibilities to various officers under me. I am appointing Mr. C. Wayne Cole as acting chief executive officer under me until this crisis has passed. Mr. Cole is director of—of—of—of—of Pastoral Administration over our ministry worldwide."

And—And I can't tell you how—and—and it's signed Herbert W. Armstrong. I can't tell you how pleased I am to have Mr. Cole aboard. Up to now—what—what the people—I think everybody over there was acting in good faith. It's bound to scare somebody when—when auditors come in and everything like that. But keep in mind what we're trying to do is to preserve, not to take. If the audit comes out fine, no problem. But if there has been a raid or a siphoning off, you are the first that ought to know about it and be interested in it. You; not us. I'm an impartial officer.

I'm—I'm a retired judge—I thought I was retired (laughter) after 21 years of serenity on the bench (laughter). And I—I want to do the job for the court. The court appointed me and I have a bond out. The court appointed me and my

job is to see if any of these claims are valid. Period. That's all.

Anybody who wants to see a copy of the Complaint—I'm gonna give Mr. Cole the whole—the whole package when I'm through—shows that the prayer, you know, what you ask for in the Complaint, is what you want from the defendant. Here the people only want an accounting. If there's no (unintelligible) if there's no defalcation, fine. If there is, you want to know. And that's why we were rather surprised to have all this animosity yesterday. But, thanks to Mr. Cole and his cooperation and the press release, I think we will—we'll have smooth sailing. I want to get out of here, too. I'm supposed to be retired. (Laughter.)

Now, keep in mind this, too. That when the judge appointed me the Receiver, I am in charge. I, for all practical purposes, am in charge of the financial operations of the organization—of all the organizations. The bank accounts have to be changed, and—and the checks will go out under my signature. So, I think even if you don't like me, or even if you do (laughter), let your pocketbooks speak, because you ain't getting a red cent (laughter) until I sign them. As I say, I want to get out of this as soon as possible. We all do. Because it's like operating under a—under a sword of Damocles, so to speak.

Now, if you have any questions, I'll be glad to answer them. Now, I'm—Actually, I'm representing you. I'm the Receiver for the people of the state of California. And it's not an adversary proceeding. Now, I—I'll welcome any questions you want. Yes, sir.

Mr. Herlofson: Could you just describe, in summary, what will take place and what length of time (unintelligible).

Appendix Y—Excerpts From Transcript of Taped Receivership Meeting

Judge Weisman: Well, what will take place is this: The state already has auditors over there going over the books. That's the main thing: to find out what the financial status is. There are certain allegations of siphoning off. And it's all in the Complaint, the exhibits to the Complaint. I don't know if you've seen it, but they're all in there. They want to find out if there has been any dipping. Period. When the audit's through, we're through. I live way out in Beverly Hills. I don't want to come to Pasadena every morning. It's cold over here. (Laughter.) So, we—we all have a common goal. And if I could only have gotten that across to some people yesterday, we wouldn't have had the trouble we did. I think now we have all that behind us, thanks to Mr. Cole. Any other questions? Please, I welcome them. Yes, sir.

Mr. Quincer: Yes, sir. I'm with the Television Department, and we're in the process of various projects and we are on the brink of needing to make commitments for, or not for, certain money allocation which are a month or two down the road, but they would be in contractual form.

Judge Weisman: Well, I'm gonna take Mr. Cole's advice on all these. He's the executive officer. He is the operating officer in charge. "Executive officer", that's a navy phrase, isn't it? (Laughter) So what? No; so, any—any questions of any nature, because I'm not familiar with anything, except the—the financial auditing aspects, and I'm not too familiar with that, but any questions you have, Mr. Cole or—What is—What is your name, sir?

Mr. Antion: David Antion.

Judge Weisman: Antion. —Antion will be glad to help you. Any other questions? Yes, sir.

Mr. Lipross: Sir, I'm over the publishing area, here.

Appendix Y—Excerpts From Transcript of Taped Receivership Meeting

Judge Weisman: The what?

Mr. Lipross: I'm over the publishing area, here. Does that mean that our normal business transactions will continue, our normal contractual arrangements with the printers and so on will continue as before?

Judge Weisman: Oh, yes.

Mr. Lipross: So then we haven't frozen--I was asked here this morning by one of our main printers. (Unintelligible) One of our main printers here asked me this morning—they're very concerned—if we're going to pay our bills next week. (Unintelligible.)

Judge Weisman: We're gonna pay all the operating bills. They'll be subject to review. I mean, if you run up a—a thousand-dollar bill at Gucci's or something (laughter). Any other questions? Yes, sir.

Dr. Hoeh: I should like to inquire, rather bluntly, as to the legality of Mr. Cole's role, on the assumption that Mr. Armstrong had full authority to make such an appointment (unintelligible).

Judge Weisman: Well, whether or not Mr. Armstrong had the authority, I have delegated him as the chief executive officer.

Dr. Hoeh: Thank you.

Judge Weisman: And I want that—to borrow a political phrase, "I'd like to be perfectly frank" (laughter). All right, thank you for your cooperation. I appreciate it very much.

Mr. H. Chodos: I wonder if perhaps the Attorney General, Mr. Tapper, might just explain a little bit from the standpoint of his office.

Judge Weisman: Oh, yes. I'd like to have Mr. Tapper explain about this, because he knows much more about it

than I do. I just got into this picture—two days ago? Is that all? Two days. All right. This is Mr. Tapper, a deputy attorney general.

Mr. Tapper: You notice the suggestion came from Mr. Chodos, not from me. I used to be in the army, so I know you never volunteer. (Laughter) I don't think that there's too much to add to what Judge Weisman has said. He explained the basic jurisdictional basis for our being here. We're not here to disrupt the church or the college or any of the other activities. It should be business as usual. As a matter of fact, one of the press asked me does this mean that this won't be a going business any more. And I said, "No, it means that we are very interested in that it not be going somewhere we're not aware of." And so that's what we're doing, is taking a look at the books. From your standpoints it will be business as usual. And if there are any questions at any stage, please don't hesitate. And if you wish to direct them to the Attorney General's office, my name is Lawrence Tapper; my telephone number is (unintelligible). I don't mind giving it to you because you won't be able to reach me. It's 736-2001. (Unintelligible) Did any of you have any questions of me? Yes.

Mr. Snook: Mr. Tapper, will we have the opportunity to know who the other gentlemen are and what their function is, and what their business out here today is? Is it possible that we can know who those other gentlemen are?

Mr. Tapper: Uh, not all of them are gentlemen. (Laughter) I don't see any problem. Next to Judge Weisman is Mr. Chodos, who is an attorney for the relators in this actions. And—

Mr. Clemens: Michael Clemens.

Mr. Tapper: —Mr. Clemens, I understand—I haven't even met him yet—is counsel for Judge Weisman and—

Mr. R. Chodos: Mrs. Campodonico.

Mr. Tapper: —the young lady is with Mr. Chodos—

Mr. R. Chodos: Mrs. Campodonico.

Mr. Tapper: —Mrs. Campodonico; which reminds me of my old friend Darius Apollodopodopolous (laughter). And we have Rafael Chodos, also with Mr. Chodos. Yes.

Mr. Schnippert: In the eyes of the state, what constitutes a misuse of funds? That sounds like a judgmental matter. Is there a legal definition of it?

Mr. Tapper: Uh, there are various types of misuse. We all think of diversion of assets as out-and-out thefts. But there is—in trust law there are far higher obligations owed by the people who are in control of properties than they would owe if it was just their own property. And in the field of nonprofit law, all those who are officers and directors and employees are, in a sense, trustees of this property.

So you can get into sophisticated diversions through self-dealing, for example. If one were a fiduciary of this institution and were engaging his own firms and paying them money, that might be a case of self-dealing and that might apply in this case.

Voice: (Unintelligible.)

Mr. Tapper: There are excesses that can occur in terms of salaries and other financial remunerations uh, the Complaint alletes, and it will be a matter of extablishing support. And according to a deed we discovered, the tax stamp showed that Mr. Rader's home in Beverly Hills was recently sold for a million and eight hundred thousand dol-

lars. The part that alarms me is that it was purchased with church funds. These are things that we need to take a look at; as I say, the various aspects of possible mishandling. Yes.

Voice: In the event that any improprieties are discovered, what would happen then?

Mr. Tapper: That will depend upon what we discover. I—I cannot possibly answer the question as it would apply to the thing you're most interested in: this case; but I can tell you from past experience that have a broad range of remedies, which may include the return of real property or the surcharge of individuals, which means getting money out of them. It may involve removal of individuals permanently as trustees; injunctions against them. There—

The law is very protective of institutions such as yours, on the theory that the institution itself and all of those who run the institution are standing in a position of trust, the property being truly owned, not by the institution or individuals, but rather the people of California. This one here.

(Unintelligible.)

Mr. Tapper: There is a prayer in the Complaint also which you might want to be aware of. It is our understanding that for many years these institutions have been run rather autocratically. Uh, California law provides that there should be opportunities for meetings of the members of a nonprofit organization; and that there should in connection with these meetings be opportunities for members to express their will through selecting the people who head the institution. I'm not aware that any of this has occurred in this case.

And the prayer has asked that, at some appropriate time, procedures—which will be totally court supervised—there will be nothing done by the Attorney General or the Receiver or Mr. Chodos or the relators—it will be done by the court—an opportunity to put the institution back on more traditional footing. But this, too, will not affect the—as far as we can foresee—the operation of the institutions at all. Yes.

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Appendix Z

Excerpts From Reporter's Transcripts, Proceedings in Los Angeles Superior Court (January 2, 1979—November 26, 1979)

The *Ex Parte* Hearing to Appoint a Receiver

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

No. C 267 607

THE PEOPLE OF THE STATE OF CALIFORNIA, *ex rel.*,
ALVIN EARL TIMMONS, *et al*,

Plaintiffs,

vs.

WORLDWIDE CHURCH OF GOD, INC.,
a California Corporation, *et al*,

Defendants.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

January 2, 1979

[1] (The following proceedings were had in chambers:)

The Court: This is the matter of The People of the State of California, and others, versus Worldwide Church of God. Case Number C 267607.

Mr. Tapper: Lawrence R. Tapper for the California Attorney General.

Mr. H. Chodos: Hillel Chodos and Raphael Chodos for the Relators.

Mr. Gibson: Hugh John Gibson for the relators.

Judge Weisman: Steven S. Weisman.

The Court: All right. I have had an opportunity to read the Complaint; I have read the memorandum of points and authorities, quickly; I have read the declarations of Mr. Chodos, Mr. Gibson, Mr. Chapman, Mr. Morgan, Mr. Timmons, and Shirley Timmons.

Mr. H. Chodos: Your Honor, I wanted to interrupt just to state for the record, a copy of the proposed pleadings was furnished to you this morning. The original is in my briefcase. It has not yet been filed, but we are prepared to file it and pay the necessary fee at any moment.

It is just that we did not want a public filing before coming to see you. I spoke to the clerk this morning and told him we would talk about that.

The Court: Well, we are going to have to get it filed if I am going to grant you any relief, as I am sure I don't have to tell you, Mr. Chodos.

[2] Mr. H. Chodos: Yes, Your Honor. I just wanted to explain.

The Court: What I have read, obviously, are copies of documents which counsel furnished me. I am concerned about the scope of the relief that is sought.

I am concerned about the ex parte nature of the proceedings, and the rather majestic order which would flow from these proceedings without a hearing. I am not unmindful there are charges that dissipation of the properties may occur, and I am also not unmindful of the one cruncher, if you will, which is the proposed sale of the Big Sandy property on January 4th, or the proposed completion.

I have read the declaration pretty carefully. The rest of the matters, and some of the supporting data, obviously, in the length of time afforded to me, I have barely skimmed

through; some of the financial matters which are referred to in one of the declarations—I guess it is Mr. Chapman's declaration—are matters which I have just glanced at; obviously, I haven't digested those in any form.

I would like to be enlightened, perhaps, about how far my writ runs in the first place. Can I really do anything about a real property transaction which is going to close, apparently, in Texas? I don't have anybody before me, as I understand it. I will have somebody before me if I issue this order in due course. Presumably, Mr. Rader or Mr. Herbert Armstrong or somebody will be served.

Let me hear from the Attorney General or from Mr. Chodos, whoever is carrying the ball here.

[3] Mr. H. Chodos: If I can just make a few observations. First of all, I recognize that any request for an ex parte receiver, without notice, has to be viewed against a strong presumption that it is an emergency measure to be used with great caution.

I would suggest to you, however, that at least insofar as pertains to the Worldwide Church of God, Inc., Ambassador College, Inc., and Ambassador International Cultural Foundation, Inc., that the usual principles are not applicable.

All of those corporations are organized and existing under California law, exclusively for charitable, religious and educational purposes.

It is our position that a shorthand way of describing the law applicable to the corporations of that type is that their property always and ultimately rests in the Court's custody, and they are always and ultimately subject to the supervision of the Court on the application of the Attorney General. In effect, there are no private interests.

The Court is not taking something away from somebody or interferring with anyone's private rights. In effect,

what we are saying is that there are presently trustees who have been allowed to manage the charitable fund on a day-to-day basis.

There is reason to believe, as we have shown you, that they have not done their job in a faithful manner. We believe that essentially those trustees serve at the Court's pleasure, and may be replaced with a more trustworthy [4] trustee.

The Court: I don't have any quarrel with that up to there, and I think you make a prima facie showing that there may be some serious problems in the administration of this trust.

Mr. Chodos: Now, turning to how far the Court's writ runs. I am inclined to believe that the Court's writ does not run to land outside the State of California.

The Court: I learned it only runs halfway across the dining room table, so as my children want to point out to me, let alone past the State line.

So you have got to give me a little jurisdiction and a little power if you want some help.

Mr. Chodos: It does run, however, to all persons within the Court's jurisdiction, and particularly, to charitable trusts which are organizing and existing under the State of California.

In fact, this Court, as I understand it, is the only court that has complete jurisdiction and supervision over the affairs of these three charitable corporations.

Now, it may be that you will appoint a trustee for these funds, Judge Weisman, and that he will then be confronted with the claims of third parties in Texas.

Now, he, after all, will stand only in the shoes of the present trustees. His rights and privileges will be no greater or no less, and he may have to submit to demands

by the people if they are meritorious, or litigate them if they are questionable, or resist them if they are not. But [5] he has to do that in the name of and on behalf of the charitable funds and this Court.

Now, the real problem, therefore, I don't know what can be done if the land has cnaged hands by the time we get to it, we may have to sue to rescind in the Texas courts.

It is my understanding that a receiver has, under that statute, the power to sue and be sued in other actions on behalf of the interest he represents.

The Court: The order which would be drawn appointing him can specifically grant him that power, and he may have it inherently.

Mr. H. Chodos: That is right. Furthermore, I believe that—Well, let me say, what we are asking here—and it may be that the order—the temporary order perhaps should be more limited in scope than the order to show cause. The one thing that is clear to me that you have the power to do is to appoint a receiver for the three charitable corporations. The other corporations we have named are alleged to be fronts, depositories of charitable funds.

We have substantial reason to believe that that is true and that we can prove it. But it may be that the taking control of those entities and the interference with those entities ought to be postponed until after a hearing has been held.

But for the charitable corporations themselves, we have a substantial chance of emmence dissipation in the immediate future. And in the nature of things, we believe [6] that it would be much more costly, and ultimately, therefore, an unnecessary drain on the charitable trusts to put the receiver in the position of having to rescind a consummated transaction when he might be able to avoid an unconsummated transaction.

Now, I will point out to the Court, too, that if the transaction is not consummated, the chances are good of litigating this matter in California. If they are consummated, the chances are good we will have to litigate it in Texas.

My experience with Texas law is that they have a somewhat different view of the applicable principles than the California courts, and it takes a little while getting acclimated to it.

Now, I don't know if I have answered Your Honor's question about the scope of your writ and the extent of your jurisdiction.

The Court: What about the ex parte nature? I read your moving papers, I read your moving declaration, and someone seems to be alarmed at the potential for file shredding or the destruction of documents or records.

Mr. Tapper: Maybe I could dispel that, Judge.

The Court: Go ahead.

Mr. Tapper: I am reminded of the words of Shirley Hufstedler when she was in the Court of Appeal, and it was no more certain as to the plaintiff's rights in terms of their being finally defined as it is here, but there is strong reason to be suspicious, and she said, "What the defendant [7] suggest is that the plaintiff should take a taste to determine whether it is a mushroom or a toadstool." And that is essentially what we are faced with here.

Nobody can tell Your Honor how many pieces of paper are being shredded per minute, per hour, per day.

The Court: If any.

Mr. Tapper: If any. We do believe that they are being shredded. We don't believe that the information that there

is a shredder in his offices is fictional; but by the same token, we haven't seen the shredder.

The Court: There can also be ligitimate uses for them, although maybe we ought to tell the city attorney that.

Go ahead.

Mr. Tapper: I suppose. But the records we are talking about are public records, just as the assets that Hillel, in describing the charitable organizations, are also public assets.

I share the thought that perhaps it will be premature to use these remedies ex parte as to non-charitable entities at this time, but I am very concerned about the Big Sandy transaction. I am very concerned about the evidence that has been presented to us of some fifty—I haven't seen all the deeds—but it is alleged that there have been fifty real estate transactions in a period of five to six months. That works out to ten per month. So if it is just merely on an averaging basis, there is a virtual certainty that there are going to be some more pieces of real estate that are going to change hands, and that, again, is going [8] to be even further litigation trying to recover the property.

The Court: These are pieces which, as I recall it, have stood in the name of one or more of the charitable corporations and being deeded out to individuals.

Mr. Tapper: That is correct. Ambassador College, for example. I believe that the case of People versus Christ's Church of the Golden Rule is practically on all fours.

I think that what has been presented to us is sufficiently strong that we must take immediate action.

A great deal of effort went into bringing this to Your Honor as early as it has been brought to you, and I would urge the Court to favorably consider the relief, at least as to the charitable entities.

Mr. Chodos: May I add just one thing. People versus Christ's Church of the Golden Rule deals—we quoted extensively from it—emphasizes the difficulties of a plaintiff in the position of the Attorney General or the Relators where information has been withheld. It emphasizes the discretion of the court to grant ex parte relief where the circumstances justify it. But, furthermore, and most important, I want to emphasize that the usual impediment to granting ex parte relief does not exist here.

Normally, in a private property situation where you grant ex parte relief, the court is put in a position of attempting to interfere with someone's rights, and to stop people from doing things that they would otherwise do with their own property, and maybe create great havoc to private interests that have not had an opportunity to be [9] heard, and that is the power that should be exercised with great skepticism and great reservation.

In this case, however, there are no private transactions. In other words, if you appoint an ex parte receiver, all that is going to happen is that he is going to take custody of the records and preserve them; take custody of the money and preserve it; take custody of the causes of action and preserve that; and he is going to be prepared to come back into this court, at any time starting tomorrow morning, that you want to make returnable, or that counsel wants to come in here for an ex parte conference, to vacate the order and talk about it.

But in the interim, what I am really trying to emphasize to you is there is no one whose interests can be hurt. Only protection can be granted by an ex parte order, and there is—

The Court: Well, we could hurt some interests, according to the thrust of what you have spelled out. They would

be interests, if the moving papers are accurate, inappropriately acquired. So we are mindful of that.

Does the record reflect that Judge Weisman is here with us, Patty?

The Reporter: Yes, Your Honor.

The Court: It has been urged that this bowl of spiders be put in your custody. Before I get involved in orders or making orders or granting relief, are you willing to become involved in it?

Judge Weisman: Yes, I am.

[10] The Court: As a receiver?

Judge Weisman: Yes, I am.

The Court: And you see no impediment that would prevent you from acting, if you were thrust—

Judge Weisman: The only impediment I know of is my polio, and that won't prevent me—

The Court: You have managed pretty well with that for some time.

I will tell you on the record that I am a little queasy about putting somebody in charge, but I think you have a showing which warrants some relief.

I would like to discuss with counsel the temporary—proposed restraining order, or order to show cause, because I think we might want to chop it up a little bit in line with the suggestions that have been made about limiting the order to the charitable corporations.

I am addressing your attention to the proposed order appointing temporary receiver, temporary restraining order and order to show cause re receiver and injunction.

Mr. H. Chodos: Would you like to have original order just to work on?

The Court: Might as well work from a copy in case we change things. And we are going to want you to file as soon as we get this—

Mr. H. Chodos: I am prepared to do so.

The Court: Let's go through it with you. Let me see your Complaint, because it names the defendants. And I take it you want this order to run, so far as the order [11] to show cause is concerned, against everybody; is that right?

Mr. H. Chodos: Yes, Your Honor.

The Court: In line with the suggestion about limiting to the charitable corporations, I am looking at Paragraph, Sub-B, on Page 2, at Line 17. Would it be necessary, with that thought in mind, to have limiting language at that point?

Mr. H. Chodos: Well, it seems to me, Your Honor, that at the hearing on the order to show cause, after there is notice, the Court has power to extend the injunction to all the defendants, and that the proper time to limit it is when the responsive showing is made.

The Court: All right. In other words, what you are really saying is that the temporary restraining order is the only one which should be limited, the proposed temporary restraining order.

Mr. H. Chodos: That is our position.

The Court: All right. I have read your bond argument. Are you suggesting that despite what is contained on Page 3, at Line 5, that no bond is required at all?

Mr. H. Chodos: No, Your Honor. We believe that no bond—In a receiver action, there are two bonds. One is from the plaintiff—

The Court: You are talking about the receiver's bond?

Mr. H. Chodos: This is the receiver's bond, and I believe Judge Weisman must post a bond.

The Court: All right. What would you suggest that bond ought to be?

[12] Mr. H. Chodos: Well, the only thing I can say is this, Your Honor: There are $80 million of assets, which would be in Judge Weisman's charge. It is my view that you could put $80 million in crumpled $20 bills in Judge Weisman's briefcase and not worry about it.

The Court: Ruin his briefcase.

Mr. H. Chodos: Yes. It would be, in my opinion—I have spoken to a bonding agent who is prepared to provide a bond, within limits, and he tells me the likely premium is one percent of the face amount. The premium, of course, is a charge on the charitable trust.

I believe, under those circumstances, a relatively nominal bond for a temporary period is appropriate. I would say $1,000, or $10,000 whatever Your Honor considers nominal under those circumstances.

The Court: I am still impressed with $10,000 but I am going to make it a $10,000 bond, and that will, of course, be subject to an argument if this matter comes back to me.

Now, we will need to redraw, it seems to me, Paragraph 3, or will we?

I will hear from you about that.

Mr. H. Chodos: I think in view of Your Honor's remark, all that would need to be done is starting with the words "Wilshire Travel" on Line 13, and extending down to the words "in California" on Line 17, that if that passage would be deleted, that this would conform to what you have indicated.

The Court: That sounds like it would be appropriate, and I am physically deleting on the copy those portions which [13] which you suggest be deleted.

What is the soonest you believe you can get these people served?

Mr. H. Chodos: I am hopeful, Your Honor, making an order today, that we could have these people served by noon tomorrow. Most of them, I think, will not be evading service.

The Court: I will make it by January 4th, at 5:00 PM. Give you a little more time. So far as the return date, that is up to Ms. Follings outside.

Let me say this: Somebody is going to have a career as a judicial officer in this. I am not sure that the limitations which are imposed on this department by the workload, which I just looked at for the next calendar, will permit this matter to remain here.

I think you are going to need somebody in the nature of an all-purpose judge to take hold of this. Now, whether Judge Schauer will do that, whether he will want me to refer it ultimately to Judge Weil to be handled as an overflow matter, I am not sure.

I doubt very much, foreseeing what inevitably has to happen in this case, whether it can be comfortably accommodated on the 8th floor, and allow us to get any other work done, unless everybody caves in, agrees or elects a new board, or something remarkable will happen.

I think what I have indicated is what I will sign as soon as the appropriately filed papers are presented to me. And we'll set down your order, appoint Judge Weisman [14] temporarily, pending the return date.

Mr. Tapper: Do you want to pick a date? Pages 1 or 2.

Mr. H. Chodos: He wants Marjorie to do that.

The Court: I don't know anything about what our calendar problems are. I have a couple of personal calendar problems which invole—one of which involves the 26th of January, at least at current rating.

Mr. H. Chodos: The statute requires within ten days.

The Court: Is it ten? Let's get Marge and get the latest date we can give you. You better get it filed.

Mr. H. Chodos: Yes. If Your Honor please, if we can be excused, I'll go out to your table outside and prepare our papers, get the bond and make all those arrangements.

The Court: I will be here, I am sorry to say.

(Proceedings concluded.)

Excerpts From a Hearing on Continuing the Receivership

REPORTERS' PARTIAL TRANSCRIPT OF PROCEEDINGS

January 5, 1979—(P.M. Session)

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[18] • • •

The Court: Ladies and gentlemen, I am talking primarily to those of you behind the spectator rail, I appreciate your cooperation under very difficult circumstances.

I want you to know what has happened here tonight very briefly.

All of you, I am sure, have contributed money to your church to some extent or another. Your money is impressed with a trust purpose. When you gave that money, you wanted it to go to a particular purpose for a particular use, and by law, you are entitled to have the representative of the State, the Attorney General, make sure that your money has, in fact, and is, in fact, being put to the purpose for which you have given it.

[19] Now by all these proceedings tonight, I do not intend to imply whatsoever that there has been any misuse of your funds.

All I am trying to do by this order is to enable the Attorney General to make a proper investigation to ascertain that the funds have, in fact, been put to their proper purpose.

I thank you very much ladies and gentlemen. I thank my staff for their heroic overtime.

(Proceedings concluded.)

Excerpts From Hearing to Clarify Receivership Order

REPORTERS' TRANSCRIPT OF PROCEEDINGS

Monday, January 8, 1979

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[7] * * *

Mr. Chodos:

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Mr. Browne would like to have Your Honor believe that this is some kind of adversary proceeding between two parties entitled to equal presumptions.

The People of the State of California, on the one hand, and Mr. Browne and his clients, whoever they may be, on the other hand. He has given us some hearsay declarations about whom he is entitled to represent. We know he represents Mr. Rader. He may or may not be entitled to represent the church. He may or may not be entitled to represent Mr. Armstrong. That all remains to be seen.

He said he is. He thinks he is. But it is simply not correct, Your Honor, that this is a civil lawsuit in which the processes of the discovery are a necessary preface to investigation of documents.

The Attorney General of the State of California, and his deputies, have not only the power, but the duty, at any time to investigate all the books and records, 100 percent of the books and records of any charitable, religious or educational organization because the Radio Church of God, now known as the Worldwide Church of God, derives its position, its existence, from the State of California.

Now those records do not belong to Mr. Browne; they don't belong to Mr. Rader; they don't belong to Mr. Armstrong. There are no privileges, constitutional or otherwise

of a charitable foundation against investigation by the Attorney General.

Now, Mr. Browne would like you to transmit this [8] receivership from what it was intended by this lawsuit and by the order that was made, which is a device for facilitating and assuring inspection by the Attorney General, into a device for frustrating that inspection and delaying it and confusing it.

In effect, what he is advancing to you is that this receiver should be a custodian in the sense of a janitor. He wants Judge Weisman to take these records into an office, put them in a box and then he wants to have a notice and a hearing and an argument, and three days and then a writ, and an appeal, and before we see any records, Your Honor, we will all be of such advanced age as not to be able to remember from one day to the next what is going on.

Now the point is, Your Honor, that Mr. Browne would like to have you believe that there are arguments to be made or rights to be protected on the part of his clients. There are no such rights.

I want to make something clear to Your Honor because I think it is important before you rule.

Not only from Wednesday to Friday night but since Friday night, Your Honor, there has been a massive, massive program of obstruction.

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Excerpts From a Hearing on Several Preliminary Motions

REPORTERS' DAILY TRANSCRIPT

Wednesday, January 10, 1979

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[7] * * *

Mr. Chodos: Because of the nature of the church, as a charitable trust, the relationship of the court to the church is unique.

Every other party who comes before the court has some claim to its own property, and has some right to resist intervention by the court. But for 700 years, Your Honor, it has been the law in England and America [8] that charitable funds are public funds. They are perpetually in the custody of the court. The court is the ultimate custodian of all church funds, just as the Attorney General has always been charged with the power and the duty to investigate allegations of misuse or even suspicions of misuse.

And the point that I am trying to make, Your Honor, is that the charitable funds is the res or subject matter of this proceeding. It isn't a party in the usual sense. It is in Your Honor's safekeeping. It has no interests to protect against the court.

Your Honor has the power and the discretion to safeguard and preserve those assets and the duty to do so. But the church, as a charitable trust, has no interest to protect here. It has no client. It is the court's funds and the court may remove and replace and substitute trustees at its pleasure.

Just as Judge Weisman would have no standing to oppose your decision to remove him, if you were to do it 10 seconds from now, he couldn't hire a lawyer to argue that he should remain in office.

Appendix Z—Excerpts From a Hearing on Several Preliminary Motions

So the trustees of that fund have no standing. And the fund itself, Your Honor, has no interest other than to be preserved and to be applied for the charitable uses for which it was created.

Your Honor is the advocate for the trust. Not Mr. Browne, not the Attorney General, but Your Honor. And I would submit to the court that to allow Mr. Browne [9] to speak for the church, to allow Mr. Browne to tell you what the church wants and doesn't want, when, in fact, he is committed to defend the man who is accused of improperly taking church money for his personal use, is an impossible situation for the court to be in.

And I would suggest that what Mr. Browne ought to do —we are here—I represent the relators, the Attorney General represents the People, and he and I are here to absent ourselves from felicity awhile to tell Your Honor this story.

It is Your Honor's responsibility, as we see it, to do whatever needs to be done to appoint receivers and other agents to do whatever needs to be done to preserve it and protect it, protect the assets and records, and no one has any basis to resist that intervention.

If there is the slightest hint or suspicion—and I submit to you have we have raised it by our papers in ample measure—if there is the slightest hint or suspicion of wrongdoing, let alone proof positive or proof by a preponderance, it is the court's duty, as I understand it, to see to it there is a worthy trustee installed, that an investigation is made, that the facts are exposed.

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Excerpts From Hearing to Confirm Receiver's Appointment

REPORTER'S DAILY TRANSCRIPT

Friday, January 12, 1979

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[350] • • •

Mr. Browne: I'll address myself to that, Your Honor.

One of those items they have alleged is a liquidation of assets. All right. And I assume that that would be one of the things you would be concerned about.

The Court: As far as the real property is concerned, I don't think they have made any substantial showing the properties were sold below market value.

Mr. Browne: Another thing they have alleged, that as part of this the church has lined their pockets and have liquidated a lot of these things to make it more easily to convert the money and property to their own use.

That was a bold conclusion. We have shown that all the money for all of the real estate transactions went into the church treasury.

Mr. Bickett testified to that. And we had the deposit slips on that.

I don't know if Mr. Chodos availed himself to look at that, but that was very significant.

In the other proceeding before Judge Foster, Your Honor, the Attorney General made the statement [351] that Ralph Helge had received a—$125,000 of the money and put it in his pocket from the Big Sandy transaction.

There is a half a million dollar down payment, you will recall, on that piece of property which is in escrow.

That was totally inaccurate. I don't know where he got that information.

Appendix Z—Excerpts From Hearing to Confirm Receiver's Appointment

But Mr. Bickett has shown all the money went into the church treasury. And we have the deposit receipts to prove it.

[352] The problem, Your Honor, is that they have made a lot of accusations, but when it comes down to the proof, they haven't got it.

And do you know why, Your Honor? I would submit it's because they never started their examination.

If they had come in and asked to look at books and records and begun an examination, maybe they would have been more enlightened. But instead they relied upon the information from dissident group church members. And this is a very, very important thing, Your Honor.

It turns out that of these dissidents, one of them, the relators, is married to the private executive secretary of Garner Ted Armstrong, who was disfellowshipped; another is married to Garner Ted Armstrong's brother's widow.

And there is a certain amount of fighting going on for control in this church.

And, Your Honor, the one thing in the world we would not want this court to do—and I don't think this court would want to do it—is to get involved in that decision-making process which in any way would hamper Mr. Armstrong.

The other thing that concerns me most about this, Your Honor, is the following.

I think the court would agree with me, I would hope, that there has not been one shred of evidence implicating Mr. Herbert Armstrong of any wrongdoing. The most the court could say was that he was overly [353] generous. I think that is—if you were going to say there was any

fault, that is what you would have to say, taken at its very best.

This man has spent 40 years developing this church. If a receiver is appointed, Your Honor, he's the man that is most effective. He's the spiritual leader of this church.

I think it's very important for the court to recognize that we are not dealing with IBM here, Your Honor. We are not dealing with a company that sells a product or a company that provides services.

There is no income of this church that is assured in any way.

The contributions are based upon one thing, faith. Faith in whom? Faith in their spiritual leader, Mr. Armstrong, who started this church in the 1930's.

There is no contract for God's faith. They come in at will.

And, Your Honor, if a receiver is appointed, no matter who it might be—Judge Weisman or any other person—that is going to put this entire church, in its 40-year history, in jeopardy.

Why? Well, you know, since this case started, this church has started to be called the Church of the Receiver instead of the Church of the World—Church—the Worldwide Church of God.

And the problem is that the membership that give God's tithes don't understand what a receiver means.

[354] They are middle American laymen. And I'm not accusing them of being in any way ignorant, but they are not by and large the sophisticated Wall Street bankers that many lawyers or people are used to dealing with.

And the problem is what they hear that Mr. Armstrong has a receiver at the Worldwide Church of God, or a

trustee, or anything else you want to call it, they feel that their spiritual leadership is in jeopardy.

And I would like to mention the feeling of these people is expressed in the declaration of Joseph Kotora, and what he says is basically that:

> "I and the thousands of church members whom I know fervently believe that God has commissioned Herbert W. Armstrong to spread the gospel of the kingdom of Christ where, when, how, through whom, and through what means Mr. Armstrong in his sole and absolute authority determines, and that Mr. Armstrong is accountable only to God for his decisions, both spiritual and temporal. No other person—receiver, referee, or otherwise—is entitled to determine, supervise, or influence how God's tithes are spent. Any attempt to do so is against God's will, and, consequently, I cannot, consistent with my faith, and will not continue to tithe or contribute any other moneys as long as any such receiver, referee, [355] or person other than Mr. Armstrong attempts to do so."

[356] Now, the importance of this is that you cannot separate the fact—

The Court: Excuse me. I am sorry, go ahead, counsel.

Mr. Browne: You cannot separate the fabric, Your Honor, of religious spiritual beliefs, and the way and the method by which that belief is disseminated. And Mr. Armstrong has developed this church and built it based upon the principle that he spreads the word of God and the word of Jesus in a particular way. And the one thing that the plaintiffs are complaining most about, which is

the spending sprees, I mean the extravagance of it, all the trips, and the Steuben crystal is what precisely has made this church and its members support Mr. Armstrong.

You know there is an old saying, Your Honor, different strokes for different folks. Some people may want to go out around the world and preach the gospel, you know, in tattered rags, using self-denial as one of the ways to do it, and others do it differently. And it seems to me that our country is broad enough to allow the people to decide for themselves.

What is most important here, Your Honor, is that there has been a complete open communication between Mr. Armstrong and the congregation, telling them what he is doing and how he is doing it. The film we looked at the other day actually presents that and indicates that very graphically.

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Mr. Browne:

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[360] Mr. Armstrong is a very prestigious spiritual leader. Why is the most drastic remedy available necessary?

These people have never been guilty of any kind of criminal wrongdoing to justify the presumption that they will not obey a court order.

The last point I would like to make, Your Honor, is that the mere imposition of a receiver will result in a great disgrace in the eyes of the membership, and discrediting of the spiritual leaders. This is not a corporation, in the sense that if IBM has a receiver put into it, or some other corporation, it can talk to the stockholders and explain to them that this is a temporary matter.

This is a grave imposition on the spiritual aspect as well. There are grave accusations made, and my feeling, Your Honor, is that before any great discredit occurs to these leaders, this court should be absolutely certain, absolutely certain of wrongdoing; not suspicion, but certainty, and that it should be thereby a preponderance of the evidence, and there has been no evidence of a substantial nature shown at this juncture, and that any resort to precipitous relief should await the time of trial.

The Court: Thank you, Mr. Browne.

Mr. Browne: Thank you.

The Court: Mr. Chodos.

Mr. Chodos: Thank you, Your Honor. Your Honor, I have to compliment Mr. Browne on the display of [361] virtuosity. He has spoken for a little over 30 minutes, and every single thing he said is wrong.

He started with the premise that we have a heavy burden of proof. And I suggest to Your Honor that that may be true in an ordinary receivership action between private parties, where private interests are at stake, but where charitable trusts are concerned, it is the opposite which is true.

Once the slightest showing sufficient even to raise the court's eyebrow has been made before the court to suggest that there may perhaps be improprieties in the administration of a charitable trust, the presumptions all operate the other way, and the trustee has the burden of coming forward and showing that everything has been fair and regular, and that burden, Your Honor, has not been carried and no attempt has been made to carry it.

Counsel tells you that a receivership is the most drastic remedy, and that may be where the court attempts to interfere with private rights.

In cases like that, the Fourteenth Amendment and the due process clause of the California Constitution interpose themselves between the court and the private party. But there are no private rights here.

This money is public money. This court is the guardian of it today; it was the guardian of it last week; it was the guardian of it in 1948; and it will continue to be the guardian of this money as long as the charitable trust continues to exist.

[362] And I would suggest to the court that it is no more drastic for the court to replace Mr. Rader as the custodian of this trust with Judge Weisman, than it would be for the court to replace Judge Weisman with someone else. This court has the power to remove and replace trustees of a charitable trust at its pleasure, in order to assure itself that there should never be the slightest question or possibility of dissipation of charitable trust assets.

And the reason for that, Your Honor, is that no one but this court has the power to do that. As Mr. Browne himself has pointed out, and as we have pointed out to you, the people who give this money—not Mr. Kotora, I am not going to speculate whether Mr. Kotora speaks for a hundred thousand members anymore than I am going to speculate whether the people who send me letters and telegrams of congratulations speak for a hundred thousand members. What I do know is that Mr. Armstrong and Mr. Rader and their henchmen, who are part of the palace guard who have been brought here to court to foist off their claims upon you, are the takers, not the givers.

The givers are the people all across the country who send in their tithes and their double tithes and their offerings, and that, Your Honor, is not because they have faith

in Herbert Armstrong, but because, I presume, they have faith in God, and because they have believed that Herbert Armstrong and the man he has [363] unfortunately chosen to deputize with control of this church are faithful trustees of God's work. And they themselves, as Your Honor sees in the moving papers, do not blush to remind people that this is God's tithe money.

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[384] The Court: All right, gentlemen. I am going to make some comments about this matter, to the extent my voice will hold out.

I think, first, I should point out that while it is self-evident—it has been mentioned many times—that I should make it very clear that the remedy which is being sought here by the plaintiffs and that of a receiver is a provisional or temporary remedy pending the trial. And, of course, it is for the purpose of preserving the assets and the operation.

The ultimate decision in the matter will be up to the trial court when this matter is tried.

For that reason I am, incidentally, going to order and I do now order that this matter be given precedence on the calendar for the purpose of trial, and that the counsel for the plaintiff is ordered forthwith to file a motion in Department 1, the master calendar department, to seek as early a trial date as is possible in this matter as a priority matter.

Now, because of the temporary nature of the remedy, it has not been practical for this court nor feasible for this court to hear a full-blown evidentiary matter, and that is the reason why I have attempted, the best way I could, to limit the oral testimony. All of that testimony, of course,

will have to be presented at the time of trial, and I am certain will be heard fully at that time.

Now, there isn't any question that the remedy [385] of a receiver, as has been pointed out by all counsel, is a harsh and drastic remedy. It is not to be utilized lightly, but nevertheless, is still one in the sound discretion of the court.

Now, bearing all of those comments in mind, it appears to me that the evidence before me that I have heard and listened to and looked at, including the exhibits, the written declarations, all the exhibits on the declarations, and the oral testimony have indicated the following:

Firstly, there are many serious charges which have been made here against the defendants, and in particular, against Mr. Rader, and even for that matter, Mr. Herbert Armstrong. And basically I think what they boil down to is there have been allegedly extraordinary sums of money which have been diverted for personal benefit, and, again, of the individuals; that valuable properties have been sold and disposed of and transferred for less than market value or for no consideration, and so on.

I don't have to go through the litany of what has been contended here. I think you are all familiar with it.

As I have already indicated, I believe it is not the duty of this court to finally determine those issues, but only to determine whether or not there is any reasonable likelihood that perhaps a trier of fact in the future in this, when this action is heard, will determine that there is some possibility of truth to these charges, probability of truth. And I have to [386] determine whether or not there might be irreparable damage or loss, in the interim, in a lawsuit in which a temporary remedy must of necessity at this time present.

I have also considered, of course, the possibility mere

injunctive relief might solve the problem. That is unlikely, and I really have discarded that as a possible remedy here, except in conjunction with others.

Now, I think I have already indicated in my comments to counsel during argument that I don't believe from the state of the evidence that the plaintiff has made any real showing of any substance that properties have been sold below market value.

The declarations which were filed by the plaintiff in this regard have indulged in sheer speculation, conclusion and hearsay regarding the sales, and those are contrary to the specific declarations of the defendants, and unless the appraisals of the defendants are shown to be unreliable or just completely untrue at the time of trial, I don't believe that the plaintiff will be able to establish that the sales heretofore made have been improper in any respect, at least solely on the basis that they were below market value.

[387] There may be other reasons, but certainly on the basis of market value, there really has been no showing. Nevertheless, there have some very serious questions raised here concerning the use and transfer of assets in the form of money and property to those in control of the church.

Again, the weight of the evidence and the final conclusions in regard thereto will have to be determined by the trial court. But I have heard enough, I think, during the course of these hearings, and from my examination of the documents, to at least give me some cause for concern and to lead me to the conclusion that pending the trial some restraints must be imposed on the operations of the church until the action, as I say, is finally determined.

Now, what have some of these questions amounted to? Well, firstly, there has been an astonishing amount of

money expended here by Messrs. Armstrong, Rader and others for many purposes, particularly in connection with so-called travel expense, the purchase of extensive gifts and so forth.

Now, certainly, some expenditures along that line are completely proper and permissible, and they are certainly within the discretion of those persons who are authorized to determine whether they should be made.

Of course, the persons have to be authorized, it seems to me—They have to be authorized to indicate [388] and decide what amounts of money should be expended. And the authority of those persons allegedly authorizing them have to be persons, as I say, who are in proper authority in the church.

These are questions which are open to, I think, some arguments, and will have to be examined very carefully at the time of trial.

Now, it can generally—with reference to the conduct of the affairs of the church, the administration of its assets and the expenditures over the last several years, and up to the present time—it seems to be conceded that in spite of the fact that the articles are filed in this corporation under the nonprofit clause of the State of California, and in spite of the fact there are specific provisions in the articles and bylaws which place control in the board of directors, it seems, nevertheless, to be conceded that for many years this was essentially a one-man operation, with Mr. Armstrong making all the decisions on a completely unilateral basis; and perhaps even more recently it has been a two-man operation, in the sense that both he and Mr. Rader are acting jointly. And of course, as you all know, there is some suggestion—at least there is an inference, because of Mr. Armstrong's possible inability to continue

with his activities, either because of advancing age or infirmity or disability of one kind or another—that perhaps it is now basically a one-man operation, again with Mr. Rader conducting the affairs of the church.

[389] All of these issues will have to be very carefully scrutinized by the trial court, and they all represent reasons why the court is concluding here that some restraints have to be placed on the conduct of the church business from this point forward, or at least until trial.

Mr. Chodos: Could you speak a little more in the microphone, Your Honor?

The Court: I will do the best I can. I am gradually running out of steam.

There have some serious inferences which have been also raised concerning various transactions between Mr. Rader and the church, from claims of self-interest, possible conflicts in interest; again all of those being problems which are going to have to be resolved in the trial court.

But there has been enough in the way of questions raised which, again, place the court on notice that there might conceivably be some problems on the part of Mr. Rader with reference to the church. Some of these relate to his possible involvement in, for example, leasing aircraft to the church and having an interest in the leasing company; various other business dealings with the church. I am not going into those now in detail, but they all, again, will have to be examined by the trial court.

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The Court:

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[392] Now the court is fully aware of the potential damage which has been argued very ably by Mr. Browne, the

damage which might accrue to the church if the operations were brought to a halt or seriously interrupted by the appointment of a receiver and by injunctive means. And, of course, I have to do the best I can to balance this threat against what the plaintiff contends will be irreparable damage if this situation is permitted to continue.

I do note in that regard that while I think it is perfectly clear that there was some immediate and serious damage to the church when the receiver was first appointed, it seems to have geared up again. The computers are now operating again, and as I understand it, the operation is now presently back and it is operating—maybe not as efficiently as before because of the confusion caused by the receivership—but nevertheless it is operating.

Now, bearing all of these considerations in mind, and bearing in mind the history of what has occurred since the receiver was appointed, I am going to make the following orders in the matter:

Firstly, all prior orders regarding the appointment of the receiver and any restraining orders are vacated and dissolved.

Secondly, Judge Steven S. Weisman—under the assumption that he accepts the appointment—is appointed as receiver pendente lite in the matter of the three corporate defendants to carry out the duties which will be specified in this order.

[393] The three corporations—rather than name them each individually as we deal with this problem—will be just referred to by me as the church, generally.

Now, the receiver is to take possession and control of the church, including all of its assets, both real and personal, tangible and intangible, of every kind and description, except as I otherwise provide in the order.

Now, in spite of this order of possession, it is the further order of the court that all the authorized employees of the church shall be permitted to continue to carry out their duties and to continue all activities and operations of the church.

The receiver nevertheless shall have the right and power to supervise and monitor all of the business and financial operations and activities of the church; however, he shall not interfere therein, unless he determines in his sound discretion that such interference is necessary to avoid damage or loss to the church of any kind.

Now if he so determines, he shall then have the right to take over the management and control to the extent that he deems it necessary in his sole discretion.

Now the receiver is also empowered to hire and employ and retain his own counsel, accountants and any other personnel, employees which he deems necessary to assist him in the discharge of his duties under this order.

He is authorized to pay to them reasonable compensation out of the funds and assets of the church, subject to the supervision of this court as it is needed and as hereafter [394] provided.

Also except as otherwise provided in the order, with reference to Messrs. Armstrong and Rader, the receiver is authorized to suspend or terminate any employee, officer or agent of the church in his sole discretion as he deems necessary. That will be subject, however, to any contractual employment rights which the suspended or terminated employee or party may have.

And he shall also have the right to direct that any such officer or employee or agent not be permitted access to the

grounds or facilities of the church from and after the date of that termination or suspension.

Now it is not the purpose of this court nor the intention of this court to allow the receiver to interfere in any way with ecclesiastical functions of the church, as distinguished from the college or the foundation, and the receiver is orders not to do so.

[395] This receivership will concern itself exclusively with the financial and business affairs of the church. The ecclesiastical affairs of the church will continue to be controlled and directed by its duly authorized ecclesiastical authorities, notwithstanding the authority of the receiver to terminate or suspend persons from employment as already ordered.

Such termination or suspension from employment shall in no way affect the membership or standing in the church.

Now, in the event that any dispute arises between the receiver and the ecclesiastical authorities of the church over whether or not a particular matter is, in fact, ecclesiastical in nature, those authorities are authorized to employ counsel to apply to this court for a resolution of that dispute, and that dispute will be resolved by the court.

Any such counsel so employed may thereafter apply for reasonable compensation from the church funds to the court, and the court will make an order for reasonable attorney's fees, if they are justified under the circumstances.

Now regarding the books and records. The receiver shall have possession and control of all the books and records of the church, but those books and records shall

be made available for the use of the employees of the church in the carrying out of all their duties.

Those books and records shall also be made available to the representatives of the plaintiffs, [396] for use in preparing for the trial in this action.

I have already indicated, I believe, that while the receiver only has the right to supervise and monitor the business and financial operations, and shall not interfere unless he deems it necessary, that he shall have the right to interfere if he does determine in his own discretion that it is necessary to interfere. And to that extent he will have the right and it is so ordered that he has the right to take over any portion of that operation he deems necessary in order to protect the church and its assets.

Now Messrs. Armstrong and Rader will be permitted to continue in their prior functions as representatives and authorities of the church, unless and until they are, either of them, removed by proper action of the church, pursuant to the laws and the articles and bylaws of the church, or unless they are removed by further order of the court pursuant to an application on the part of the receiver.

Now if the receiver deems it necessary at any time hereafter pending the trial to move the court to remove either Mr. Armstrong or Mr. Rader or both, the receiver may file a petition with the court on notice to the defendants, and the court will hear the matter and make a determination on that issue.

However, subject to their rights under the existing employment contracts which they have—that in which Messrs. Armstrong and Rader have—to the [397] extent that those rights may be hereafter determined by the court, their compensation for services and any expenses that

are incurred by them during the course of that employment, shall only be in such amounts as may be determined by the receiver in his discretion from time to time.

The receiver is authorized to conduct a thorough audit of the financial and business dealings of the church, and to commence that audit forthwith. And he shall have the right to compensate his professional assistants in regard to that audit out of the church treasury, and it shall all be subject to supervision of the court as hereinafter provided.

The receiver is also to review all allegations of malfeasance and neglect concerning the financial and business affairs of the church, and to apply to the court where appropriate for leave on behalf of the church for any relief which may be necessary.

Now anything that I have said to the contrary, it shall not be necessary initially for the receiver to take possession of, nor to deposit in any special receiver's account, the funds of the church now or hereafter received by the church; but the receiver shall supervise the deposits and disbursements of the funds by the church in accordance with this order.

The funds of the church shall continue to be handled by its employees in the same manner and with the same bookkeeping, accounting and disbursement procedures [398] as were in effect at the time of the commencement of the ex parte receivership, subject to the supervision of the receiver. But in any event, the receiver in his discretion shall have the right at any time by notification to the court and the defendants to take possession and control of the funds of the church forthwith, and deposit them in a special receiver's account, if he deems it necessary. That

will be something completely in the discretion of the receiver.

Now, until there has been a final disposition of this matter by trial and an order of the trial court, the defendants and each of them and all of their agents, employees and all persons acting in concert with them are hereby enjoined and restrained from interfering with or obstructing the receiver in the discharge of his duties, or from withholding from him any of the assets, properties, books, or records of the church; and they are further enjoined and restrained from selling, mortgaging, encumbering, or otherwise disposing of any of the assets of the church or its associated corporations.

Notwithstanding this injunction that I have just referred to, however, based upon the appraisal of the Big Sandy campus of Ambassador College at Big Sandy, Texas, as set forth in the declaration of Michael Wierwille of Valuation Research Corporation, of the sale of said real property for the sum of $10.6 million as provided for in the pending escrow covering that sale shall be permitted to go forward to a conclusion of said sale.

[399] Now it is the purpose and intention of the court under this order to secure the full cooperation of the church authorities and the employees with the receiver, and of the receiver with such authorities and employees to the end that the affairs of the church shall only be minimally interfered with until this action can be tried.

Now all the authorities and employees of the church are ordered to use reasonable efforts to extend that cooperation to the receiver.

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[406] Mr. Browne: May I suggest a problem. On Monday morning, the Attorney General comes in and says, "We want to look at that filing cabinet over there." Now, I haven't looked at the filing cabinet myself. I don't know what is in there.

How can I assert any objection if I don't know what is in there?

The Court: If I give you the right to go through all the records before they go through them, this will grind to a halt, and I will not do it, Mr. Browne.

Mr. Browne: So the Attorney General need only ask the receiver to open up whatever he has?

The Court: The same as you can do; you have the same rights.

Mr. Browne: Well—

The Court: You are counsel for the church, presumably, and you are counsel for the other defendants. You have the same rights to the documents as the Attorney General does.

Mr. Browne: That was not covered, Your Honor, I think in your order. That is what troubled me. You mentioned the plaintiffs' representatives had access to those documents, but there was no mention in that—

The Court: That is not correct. I said the defendants will have the full use of the documents, the church, which includes the defendants; does it not?

Mr. Browne: That does, Your Honor.

The Court: All right. They have full access [407] to the use of the records.

Do you have some comments you wish to make, Judge Weisman?

Judge Weisman: Yes, I would like to make a statement, if I can.

I am willing to live with that order, and I am willing to cooperate with Mr. Rader, and I hope it is a two-way street.

However, I would like some clarification as to what happens if I tell Mr. Rader I don't think this action ought to be taken, and I am going to apply to the court—

The Court: I don't think you have to apply to the court in every instance now. I have given you full discretion.

Judge Weisman: All right.

The Court: What I have done essentially here—as I would summarize it, Judge—is to provide that the management of the day-to-day affairs of the church are to be conducted by their employees, subject to your monitoring and your supervision.

If you determine something is out of order, out of line, you are entitled to take over on that, and it is your decision which you will control.

Judge Weisman: The burden is on the other side to come into court?

The Court: As far as I am concerned, I am leaving it up to you. I am inviting no one to come into court [408] with respect to those issues.

Mr. Chodos: Is that true that the Judge has discretion also if Mr. Rader—

The Court: You mean Judge Weisman?

Mr. Chodos: That Judge Weisman has discretion if he feels that Mr. Rader is not conducting himself properly to suspend him from his duties, as opposed to his pay, and have Mr. Rader come into the court to talk about it?

The Court: That is one instance which I indicated that if there is a desire to suspend Mr. Rader or Mr. Armstrong, that is the one matter which they may make a motion with the court.

Mr. Chodos: What happens in the interim?

The Court: I don't know what happens in the interim. You get in here in a hurry.

Mr. Chodos: Very well.

The Court: I don't think anything can be that crucial that you couldn't get into court. Come down informally and discuss it with me if you have to, with notice to other counsel.

Yes, sir?

Mr. Browne: Your Honor, two other points. I mentioned I had three.

Would the court be willing to make an order to preserve the confidentiality of whatever records are in the possession of the receiver?

I think during this investigatory period, [409] it is extremely important, for example, that the records remain in the possession of the receiver, and that if the Attorney General wishes to review them, that the Attorney General or its representatives be permitted to do so; but that, for example—and also the parties themselves—the relators, for example, that they not be given access to those documents, because those particular people—and I think the record is clear on this, at least there is conflict on it and I think an inference can be drawn—do not have the best interests of the church at heart insofar as the ecclesiastical nature of it is concerned.

The Court: They would argue with you on that, wouldn't they?

Mr. Browne: They might. But, Your Honor, we are talking about a very delicate subject here, and, you know, we are talking about—

Mr. Chodos: I can save counsel the trouble. My relators, Your Honor, have completed their function. For all practical purposes, they are no longer in this case. I don't go over the documents with them. This is a matter for the Attorney General. They are not parties to this lawsuit, and the Attorney General has no interest in religious factions, and neither do I.

[410] The Court: Do you wish to be heard?

Mr. Tapper: Yes, please. We are not talking about religious documents; we are talking about financial records. I have had some experience in how to conduct an investigation.

There is no way that we can conduct a proper investigation if we were to be given access to a record but we can't check the record by talking to somebody to see if the transaction occurred the way the record claims the transaction occurred.

I do not wish to see us crippled in the way Mr. Browne is suggesting.

The Court: I don't know what Mr. Browne has in mind, to be honest with you.

Mr. Tapper: He is saying he doesn't want us to show these records to anybody, and particularly to the relators, Your Honor.

The Court: I don't think it would be inappropriate to make an order to the effect you may show it to anyone who has a reasonable interest in it, who has a right to be concerned, and not to any strangers to the transaction.

Mr. Tapper: Your Honor, we certainly conduct our investigations with discretion.

The Court: I think you are raising an issue which is not an issue, Mr. Browne.

You have the cooperation of the Attorney General in that regard. They are not going to disclose these documents to anyone unless it is someone who has a reasonable interest in the documents and is connected in some way with the [411] transaction.

Mr. Browne: Could we have an order along the lines if they are going to disclose those documents to anyone outside of the Attorney General staff people working for them—

The Court: No, sir, I won't get into that.

Mr. Browne: May I finish?

The Court: I know what you have in mind. I am not getting into that.

Mr. Browne: I would like some notice, Your Honor, give us five days notice that they are going to have those records shown to these people.

The Court: I don't think it is necessary, Mr. Browne, and it is unduly hampering and creating more paperwork. This is going to be a mountain of paper as it is. We already have so many lawyers involved here that it is really unbelievable. I am not going to get into any more legal activity than is required.

I don't think that is reasonably necessary. Your motion is denied.

Mr. Browne has one more matter.

Mr. Browne: Your Honor, I woud like to request a stay order for a reasonable period of time for us to get

the transcript and take appropriate relief up to the State court of appeal also to the federal court.

The Court: That is denied, counsel. This has to be moved along.

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Excerpts From Hearing on Motion by Receiver

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Monday, January 22, 1979

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[42] Mr. Chodos: • • •

We hope Your Honor will give the Receiver the discretion to notify the world and the members that there is a court order that will be obeyed.

NAACP vs. Alabama is a red herring. All that happened in that case was that a showing was made that the State of Alabama might use the NAACP membership list to harass the members. There is no such claim here. We are looking for the membership list so that we can protect the members.

And let me say this and I'll stop.

I argued before you the first day we were before you that there was an inherent conflict of interest between Mr. Browne's devotion to Mr. Rader, his long-time client, and his purported representation of the church.

Your Honor, Mr. Rader has demonstrated in the last week—and I want to say that I understand that Your Honor has to have competent evidence because competent evidence takes weeks and months to collect and present—it is a matter of common knowledge of which the court can take notice that Mr. Rader, although he purports to speak for the church, is trying to wreck it, and we're trying to save it.

And I think that Mr. Browne ought to be relegated to representing Mr. Rader and stop all this nonsense about how he is looking at the church and the First Amendment rights of the members, and that the court ought to give

the Receiver the power he has been sent to do, and I urge the court to do [43] that this afternoon.

The Court: I have no intention of doing anything other than that, Mr. Chodos.

I think you recognize I'm going to move this matter along. I am not going to tolerate any delay or challenge to the powers of the Receiver. However, I've got to look at the other side of the coin, as well.

Now, insofar as the court is concerned, when we get to that matter of being in touch with the membership or the ministers, certainly, to the extent that it is necessary to protect the financial interests of the church, the court is going to give the Receiver the obligation and the duty to do so.

I'm leaving that in the discretion of the Receiver. I'm not going to attempt to run this operation. That is what the court has appointed the Receiver to do, and I don't have the time or the ability, at this stage, to attempt to run the affairs of the church.

I will make any orders. I have given the discretion to the Receiver. I assume that he is going to carry it out in good fashion.

Mr. Nutter: Can I say one thing?

The Court: Yes.

Mr. Nutter: Attached to Judge Weisman's letter, there is a letter he sent to Mr. Armstrong asking for a meeting. If it would not be imposing on the court, I think that will be helpful to see the letter attached to our declaration as Exhibit A.

[44] The Court: That is the January 18th letter?

Mr. Nutter: Yes, Your Honor.

We have received no answer to that letter.

Appendix Z—Excerpts From Hearing on Motion by Receiver

The Court: All I can say, as I say, no one is going to stand in the way of the court of proceeding with its duties. I think Mr. Browne recognizes that, and we're going to have to go on that assumption.

Mr. Browne: So I have it understood, is it the court's order that Judge Weisman, in his discretion, may use the membership list?

The Court: Yes. That is the order, when it relates to business and money matters of the church and all of the corporations that are involved here.

Mr. Browne: Can the court take notice of the fact that since the ministers and the members of their churches do not have any obligation to send money to this church or any other church, that when the Receiver—and I have a great deal of respect for Judge Weisman, but he is a judge, and he is a secular person, not one who has tried to develop a flock, based upon the spiritual flock—that a directive to the ministers to send your money to me, not purposely, but it is designed to upset the delicate balance between the church and the members and its flock.

The Court: Mr. Browne, may I interrupt you?

I made a ruling that he was going to have full control over those matters, and I was going to permit him to do so, and I am not going to change that.

Mr. Browne: May I make one point?

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Excerpts From Hearing on Bond to Stay Receivership

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Tuesday, February 13, 1979

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Mr. Tapper:

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When it is clear that the property that they're talking about having received is not received for them for their own use and enjoyment, the property doesn't belong to them. It belongs in trust for the benefit of the public. It would be absurd to even consider a bond in the amount of $280,000,000, and yet—and certainly, under the balance sheet that they submitted, they presently hold about $40,000,000 worth of assets, so it really isn't even feasible.

It isn't the type of case for another reason. In most receivership cases, you have party A and party B who are fighting over certain assets. A receiver is put in by the court to protect the assets while it is determined what the rights of the two parties are.

In this case there isn't any adversary proceeding between party A and party B. The law is very clear.

The Court: Mr. Browne says that the only people interested are six people who filed this action.

Mr. Tapper: That is a red herring, Your Honor.

Under the Title XI, the quote errando provisions of the Administrative Code, it is provided, for example, that the Attorney General controls the litigation at all times, and that at any time the Attorney General may step in and take over the litigation.

Mr. Browne is attempting to argue to the court that the real people in interest here are six individuals when, in

fact, the relator status to be granted under the [9] Administrative Code clearly is for the benefit of the public, and we will remain in complete control of the litigation.

So, I could, at this very moment, for example, dismiss the six relators. I could take the case away from them. I could dismiss the case. This is all provided for under the Administrative Code. That's the red herring.

The Court: Aren't the People a party to these proceedings, or are they not?

Mr. Tapper: Yes, they are, Your Honor. They were granted relator status for the purpose of carrying the laboring arm and bringing this matter to the court's attention, and I think the court will concede that Mr. Chodos has done an admirable job in doing this.

The Court: Is the State of California a party?

Mr. Tapper: Yes, Your Honor.

Mr. Harney: We disagree.

Mr. Tapper: The State is automatically a party to these proceedings. I don't have the Administrative Code with me, but I can show it to the court.

Mr. Harney: May I be heard on this?

The Court: Just a moment.

Mr. Tapper: Your Honor, if this were not true—let me demonstrate that if this were not true, it would mean that any memorial trust case—and Brown vs. National Memorial Home was a charitable trust case—one could look at the fact that the People of the State of California were a party, take the individuals, dismiss the individuals and leave no action whatsoever pending.

[10] The suit clearly is one to enforce public rights, and attacking the Relators is a red herring, Your Honor.

The Court: All right. Mr. Browne and Mr. Harney and

Mr. Horvitz, you all represent the same people, but you can take your choice. Who is going to speak for you?

Mr. Browne: Can we divide up the matter?

The Court: No. I just want one counsel.

Mr. Harney: I just wanted to make one point.

The Court: Mr. Harney, I want one party to speak. If you want to consult about it, you may, but I think it's unnecessary to have three counsel here to argue the matter.

Mr. Harney: It was just frustration, Your Honor.

The Court: Pardon?

Mr. Harney: It was just frustration on my part.

The Court: All right. I'll give Mr. Harney five minutes, and then I'll expect Mr. Browne to carry the ball.

Mr. Harney: It won't take that long.

Mr. Tapper: The one thing I want Mr. Harney to respond to in answer to your question, not only is the Receiver to keep the records, the Receiver is going to furnish an accounting which clearly isn't going to be accomplished without that Receiver. If an appeal is pending for two years and an accounting doesn't even begin for two years, the People have lost that also.

Mr. Harney: We have strong law that the purpose of a receiver is only to protect and secure assets, not to conduct an investigation.

* * * * *

[13] * * *

Mr. Tapper: I might add, Your Honor, there is language in the Brown case to the effect that the Attorney General may grant relators' status, and he can do so informally. He can do so in any way that he chooses to do so. That was one of the major holdings of the Brown case, because it was contended that the plaintiffs had no standing.

In this case, the Attorney General came to court and said that there were public rights that should be adjudicated, and wanted to have the court determine those rights. In response to that—

Mr. Browne: Your Honor—

Mr. Tapper: —the court in Brown indicated that the Attorney General may make his own rules, I think was the language of the court.

Mr. Brown can't argue now that the Attorney General doesn't have the ability to make his own rules and use the Brown case which clearly states exactly to the contrary.

And I can represent to the court that the rules that we have established, the Attorney—there is a specific provision that the Attorney General maintains control of the litigation at all times. He may desist the litigation. He may direct that an appeal not be taken, or that an appeal be taken. He may step in and replace the relators, and I think that the [14] provision that he may step in and replace the relators in dispositive of the point that is now being raised, particularly in light of the language in Brown that the Attorney General may make his own rules.

Mr. Browne: Your Honor, the question of control is not an issue. We are not complaining that the Attorney General does not control this case. It does as to the six people.

They selected this particular remedy. They selected this remedy. § 83 of the Code of Civil Procedure says it can be brought by the Attorney General on behalf of the State of California or on the complaint of a private party. They didn't take the former. They took the latter.

Now, if they want to join 100,000 members, so be it. We'll post bonds dealing with those 100,000 members, and may have selected six, and each of these people have a relationship to Garner Ted Armstrong who was disfellowshipped last year.

This is a struggle of dissident church members. Only six of them. The other 99,994 have not been heard from, and at least 5,000 of them are out there saying they don't agree with these dissidents, and another 10,000 letters saying they don't agree.

I don't think this court can speculate what their wishes are.

The Court: Their wishes are immaterial, counsel.

Mr. Browne: And it is only to this extent. These six members said, "We are unhappy about the tithes they put in because we don't like the way they spent our money", so our position is quite simple, Your Honor.

Excerpts From Hearing On Motion to Disqualify Attorney Chodos

REPORTER'S TRANSCRIPT OF PROCEEDINGS
February 16, 1979

[10] • • •

Mr. Browne: • • •

Now, they use the word "supervised." The code section says, "The Attorney General may examine the books and records of a charitable non-profit corporation," not supervise.

Assuming arguendo that section is constitutionally valid when applied to a church, and we dispute that it is, it cannot be subject to doubt that there are certain documents like ecclesiastical documents, membership lists, amounts that the members tithe, penitent and clergy communications that are totally privileged, and anything that bears upon those items may be at least partially privileged. So the argument that any document owned by the Church is subject to scrutiny and examination, is automatically not

In conclusion, Your Honor, we are asking the court, with due respect, to look at this and be a bit courageous.

It's difficult for a court to say to two lawyers that they haven't acted properly and that they are disqualified. But, Your Honor, this case has received an enormous amount of publicity, and 99 people out of a hundred who have never walked into that court and come up to me and accuse my clients of heinous crimes, all of which have come through the media. And I believe, Your Honor, the question of whether this case can be fairly tried is substantially in doubt as a result of that.

I call upon this court's equitable powers to be asserted so that our clients need not suffer that abuse in [11] the future. There is simply no need for it.

Appendix Z—Excerpts From Hearing on Motion to Disqualify Attorney Chodos

The Court: Thank you, Mr. Browne.

Mr. Horvitz?

Mr. Horvitz: I'm co-counsel with Mr. Browne, and just hear to listen, Your Honor.

The Court: Mr. Harney?

Mr. Harney: I think Mr. Browne discovered it. Perhaps I could say something after Mr. Chodos.

The Court: Mr. Chodos?

Mr. Chodos: Does Your Honor need to hear from me?

The Court: I always think it's nice for both sides to speak up if you want to.

Mr. Chodos: Well, the difficulty I have, Your Honor, is that Mr. Browne has given you a long recitation, most of which is false.

I didn't come here with all the transcripts of the proceedings before Judge Title, so I am not able to exhibit to you what Judge Title has told him on previous occasions and what orders he has made concerning the ex parte application and order to show cause re gag order, but I will produce them if it becomes necessary.

I am also not in a position to present, Your Honor, or to point, Your Honor, right this minute to the places in the file which contradict Mr. Browne's assertions about Garner Ted Armstrong and the internal factional struggle and how Mr. Tapper and I and Mr. Deukmejian and Mr. Younger are all unwitting pawns of Garner Ted Armstrong.

I can present to the court, however, that I [12] had no contact whatsoever of any kind, direct or indirect, with Garner Ted Armstrong until a few days ago in connection with the scheduling by Mr. Browne of his deposition in this lawsuit, and a subsequent conversation on the same

Appendix Z—Excerpts From Hearing on Motion to Disqualify Attorney Chodos

subject. That was the first and only conversations I have had with him.

Now, the fact is, Your Honor, the plaintiff in this lawsuit is the People of the State of California. The plaintiffs are not the six relators. The six relators were granted leave to sue through me in the name of and on behalf of the People of the State of California, and that is why the Attorney General has signed this pleading along with us.

The relators in this action have no claims. They have no interests to protect. They have no remedies that they can seek. They have no office to perform in this lawsuit. Having related their allegations of improper management of charitable trust funds, they are functus officio; and they have nothing more to do with this case, except that their names appear on the pleadings.

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Excerpts From Further Hearing

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Wednesday, February 21, 1979

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[9] • • •

Mr. Tapper: I'm saying several things.

First, we were not able to come up with the manpower to carry this type of action. I foresaw that then, and I think it's clear from what the court is saying that there needs to be a great deal of resources to meet the obstruction that is being placed in the way of, quote, audit and investigation in this case.

The Court: Where does the law place that burden, Mr. Tapper?

Mr. Tapper: The burden is, your Honor, on the nonprofit organization.

The Court: How do you conclude that?

Mr. Tapper: If, for example—Let's look by an analogy to a private trust. If a ward, a minor, were to come before the court and ask for an accounting from a private trustee, the court would, of course, order an audit.

It would order the accounting, and the burden would not be on the minor to come up with the resources to carry the accounting. The burden is on the trustee.

In this case, we have a nonprofit organization that is the trustee, and it has the obligation to furnish the accounting.

The Court: Now, hold on. Would you repeat that?

Mr. Tapper: There are three organizations, all of which hold their assets in trust for the public. The law is clear that a trustee has an obligation to account to the [10] beneficiary.

I represent the beneficiary, the public. The question, I think, your Honor, is asking why shouldn't the public undertake the obligation of dragging out the accounting, making the accounting, investigating to see that the accounting is a clean one, and pay for it out of public coffers.

I don't think that that is consistent with the cases, your Honor.

The Court: Well, give me a case which says it's not the obligation of the Attorney General to carry the burden in this litigation.

Mr. Tapper: Well, your Honor, Holt vs. College of Osteopathic Physicians & Surgeons points out, and if I may read from this, and this was in answer to the point that the Attorney General is the only one that should be doing this job.

> "Part of the problem of enforcement is to bring to light conduct detrimental to a charitable trust so that remedial action may be taken. The Attorney General may not be in a position to become aware of wrongful conduct or to be sufficiently familiar with the situation to appreciate its impact, and the various responsibilities of his office may also tend to make it burdensome for him to institute legal actions except in situations of serious public detriment."

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[12] • • •

Mr. Tapper: Private trusts.

Now, the question is why should the case be different in a case of public trust?

The Court: Very simple to me, Mr. Tapper. The State

has undertaken the obligation of proceeding with this lawsuit.

It is true that the defendant Church cannot refuse to disclose whatever information is needed. I think that is absolutely clear.

If they attempt to hide any information, refuse to disclose it, that's one thing.

On the other hand, the question really is, are you telling me the Church itself has to conduct its own audit and then present it? They've already conducted audits. They claim their books and records are in proper condition.

Now, the question really is at this stage: Who should assume that burden of proving to the contrary?

Mr. Tapper: Your Honor, I know what they claim, and your Honor knows who the accounting firm is. Your Honor has heard the testimony as to the independence of the accounting firm and how Mr. Kessler purchased the firm from Mr. Rader.

I think that it's clear that there has not been a truly independent audit done in this case. The fact remains, your Honor, that there is a question—it's a question of where the burden lies as to protecting the public interest.

Now, we have done what we can do by bringing it to the court, and if the court believed that there was [13] good reason to appoint a receiver in this case, that has been taken the Court of Appeals and it's been sustained. It may be on calendar for today in the Supreme Court. I don't know, but I would hope that it will also be sustained in the Supreme Court.

The question no longer, your Honor, is whether the receiver was properly appointed or whether this court's order of January 19 was an appropriate order. All the

arguments that Mr. Browne is making today have been made to the appellate courts that it is the burden of the Attorney General to investigate. It's the burden of the Attorney General to conduct the audit.

I think those arguments have been rejected.

The Court: We're not discussing today, Mr. Tapper—unless I misunderstand you—whether or not the receiver was properly appointed. That is not the issue.

I'm satisfied that the receiver was properly appointed in this case initially. There was enough to raise an eyebrow of anyone who had a reasonable mind to question whether or not there had not been some malfeasance, some conflict of interests and financial wrongdoing here. That's not the issue we're discussing.

We are now some weeks into the Receivership, and it developed, as far as I can see, looking at this very objectively, is that all that is being accomplished is the conduct of the audit.

Now, certainly there should be an audit. • • •

[20] • • •

The beneficiary of that lawsuit will be the Church. If Mr. Rader owes a million dollars of illegal profit on the house, the Church is going to get it. Why shouldn't the Church pay the cost of pursuing it? Why should the Attorney General pay it?

I point out to your Honor that 9505 does not suggest that the Attorney General must pursue the search charge claim. He sometimes does.

The Court: It says he is to correct any malfeasance that he finds.

Mr. Chodos: No. He is to bring an action.

The Court: To correct. What does that mean?

Mr. Chodos: That means that he is supposed to tell the court about it, and the court is to take those measures which are most calculated to correct the improprieties of the trust.

The Court: Come on, Mr. Chodos. It's not the court that is an investigating body. That may be true someplace else or under civil law in European countries. That is not true here.

The court is not the investigator.

Mr. Chodos: The court is not the investigator. What we are saying is that the Church—if the Church had a board of directors, they would be liable for failing [21] to prevent dissipation. They would be liable for failing to prevent malfeasance or to pursue it.

But this corporation doesn't have a board of directors. It doesn't have a set of trustees who can be relied on to enforce the trust. That's why we brought this case to the courts. The court—the reserve function and office of the court is to see to it that charitable trust funds are properly managed.

Now, you come to the court as the Attorney General did and said, "Look, I've looked into this and I'm astonished to see that there is no trustee here. Mr. Rader is the trustee, and also the alleged wrongdoer."

We're asking the court, therefore, to appoint—the Receiver in this case is a substitute, interim trustee, and he's not just a holding device like a writ of attachment. He has those affirmative duties which are duties of a trustee, and the trustee cannot simply sit back and wait for conflicting claimants to come in and argue what happens to the money.

The trustee has to see to it that claims are pursued.

Let me explain, your Honor, my point in the matter.

The idea that we should attempt to conduct this audit with Mr. Rader in control and this army of lawyers that he has here—now a fourth firm, I understand—that we should attempt to pursue discovery proceedings by subpoenas and motions and endless litigation over every document, [22] and that we have the burden to prove on behalf of the public that there has been misconduct, and that we have the burden to pursue it and get it back for the Church.

I have to tell you, your Honor, that is not a burden that we ever undertook in filing this lawsuit or that I think that we can carry.

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[23] The Court: Now, the other point is that the defendants' response, which is fine, but why should the Church have to bear that burden? Why shouldn't the Attorney General, since he is obligated to bring the lawsuit—at least he saw fit to bring the lawsuit—why shouldn't he undertake to conduct that audit?

If that is the fact, then there is no reason why the Attorney General should not assume that, particularly in view of the fact—and this is a point which, to me, is very important—the Church, per se, has not been accused of any wrongdoing. It is individual members. It's Mr. Rader and the others, possibly, who have been accused of taking money that didn't belong to them, of breach of fiduciary duty and the like.

Whether or not, in the final analysis, it is determined in this matter that Mr. Rader and others have or have not acted wrongly, in the final analysis the Church will still be the innocent party in the case; isn't that true?

Mr. Chodos: Not exactly, your Honor.

The Court: Why isn't it?

Mr. Chodos: I will explain why.

In a sense it is, but I think in a more important, fundamental sense, it is not true.

Let me explain that one of the people who came to me, Mr. Chapman, who was a declarant in the original papers, has been a minister in this Church, or was a minister before he was disfellowshipped, for many years.

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Mr. Chodos:

[128] • • •

However, the issue, Your Honor, before you is what accounting is satisfactory to you.

If you're going to be satisfied with an accounting done by Peat, Marwick where Mr. Bodo and Mr. Helge screen every document and decide for themselves in advance whether it is ecclesiastic, and leave it up to the accountants to come to court every Monday and Thursday asking for a ruling—

The Court: What difference does it make whether the receiver comes running to court or the accountant comes running to court?

Mr. Chodos: Because the fact is, 99 percent of the records that are supposed to be ecclesiastical are essentially the heart of the wrong-doing.

The Court: I agree with you.

Mr. Chodos: Now, what I'm saying is Your Honor has to decide what part of this charitable trust has been improperly managed, and if you are content with not putting a receiver in control of the records so that the auditors can go to the records immediately without giving them

a chance to change things or hide things or alter things, but I have to explain to Your Honor, in fairness and candor to the court, that neither I nor the Attorney General's Office is going to become involved in litigating the issues of that accounting. We are not going to do it.

The Court: Mr. Chodos, I have to interrupt.

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[135] • • •

The Court:

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Now, that still takes us to the point that the receiver ought to be continued.

And I say what does the evidence show? There has been some showing, and I concede this. There has been some showing that there really is a lack of bona fide cooperation on the part of the church people.

I think they have actually started out on a tact of attempting to frustrate the receiver and the audit. No question in my mind about that from everything I have seen and heard.

On the other hand, I don't think there is enough there for me to now say that keeping the receiver in will accomplish anything, because I don't see that it will. The purpose of the receiver really is a two-fold purpose at this point.

There is a primary purpose which you outlined to me, Mr. Chodos. That is to say, of securing the audit.

Now, the audit can go forward under the auspices of the Attorney General. The second purpose was to protect the assets. Well, the real estate out in Pasadena is not going to get up and walk away. There are records out there.

If there is some demonstration that those [136] records have been fooled around with, I haven't heard it yet. There has been some suggestion and some vague evidence that I didn't put too much credence on at the time of the hearing that something had been shredded, but what had been shredded turned out to be really not of much consequence.

Now, the fact that I should determine is that the receiver should vacate the premises and let's see if we can get an audit. I have had all kinds of assurances from counsel that they're going to permit that audit to go forward.

Now, maybe they won't. Maybe they're not acting in good faith.

I'm going to make an assumption that they mean what they say, and if it develops that the auditors have any difficulty in that regard, I'm going to make it absolutely clear that the first thing I would do would be to entertain an order to show cause regarding contempt, and I would entertain a motion to place a receiver back in, and I won't hesitate to do it.

And I'm not talking about a receiver who will be supervising, because the next time a receiver goes in, he will be taking full charge. It will be a full-blown receivership with all of the powers of control, operation and the works.

There will be no supervision.

As I say, I want to make that very, very clear, because the court will not permit them to frustrate the orders of the court.

Now, it seems to me that at the present time, the [137] church ought to be given, say, one, and I should possibly say one final opportunity to demonstrate their good faith and show us they will respond directly to the auditors,

and furnish the auditors everything they need, absolutely in good faith and expeditiously.

And, incidentally, so it will not go without being mentioned, I do not accept, Mr. Browne, this argument about ecclesiastical interests prevailing when you are talking about the financial records of this church or any of these corporations.

If this receivership is vacated, and I have one or two petitions come into this court with arguments made that the financial records involve ecclesiastical matters, let me assure you that I will consider that evidence of bad faith, and it will be very strong evidence to me that the receivership ought to be back in there, because I just don't think ecclesiastical matters have anything to do with the financial aspects of the operation out there.

I can see a clear delineation between what is ecclesiastical and what is not, but it has no reference whatsoever to financial matters. So, I want that to be very, very clear.

It seems to me that under the circumstances, what the court ought to do, and I am going to order now, firstly, that the receivership is going to be terminated, at least temporarily.

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Excerpts From Further Hearing

REPORTER'S TRANSCRIPT

Thursday, March 1, 1979

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[15] Mr. Browne: I think we have to go back to what they have alleged in their complaint.

They alleged in the complaint that Mr. Armstrong and Mr. Rader were siphoning off "Millions of dollars," misappropriating millions of dollars. Those are the only two defendants personally to which this Attorney General has a right to examine. They are limited by the scope of their complaint.

They can't go on a fishing expedition into all sorts of collateral issues and investigate ministers' salaries; how much it cost to produce Quest Magazine; how much they spend on Ambassador College; how much they give to welfare recipients. That is well beyond the scope of their complaint.

And, Your Honor, they are asking to get into every internal financial document that we have. I want to point out that this is totally abhorrent to what 9505 contemplates, which is an examination of financial affairs, and in the institution of a lawsuit based upon wrong-doing, they are limited to those allegations. When you have an I.R.S. investigation—

The Court: Let's not get into that. It serves no purpose.

Mr. Browne: It has never ever been the right of any governmental agency to go into a corporate entity of any kind and simply say we want everything in your computer data base.

The Court: Do you want to be heard, Mr. Chodos?

[16] Mr. Chodos: Yes, Your Honor.

Mr. Browne: It goes back 20 years, Your Honor.

Mr. Chodos: These corporations have never rendered an accounting. They have done everything through the accounting firm of Mr. Rader and his partners and former partners.

Now, I don't know whether Mr. Armstrong and Mr. Rader have been siphoning one million or ten million or forty million. I know that $70 million a year, by their own admission, runs in and out of this company, and takes with it tax exemptions of 20, 30, 40 percent of this every year.

Now, the Attorney General has a right, as I understand the law, and the People have a right to a full and complete accounting of every last penny.

The Court: I don't think I have any question about that.

Mr. Chodos: The point is, Your Honor, what they have told us and what they are trying to do is keep the expense down.

Mr. Bicket came to your court and he testified that most —except for the executive payroll which is the sensitive stuff—most of the accounts are on the computer. They can be called for instantaneously by electronic devices.

These are not mysterious computers. They are current in the business world.

The cost of a computer terminal is negligible. Rafael Chodos does happen to be an expert in that field, and he can explain it. It is a means of simply filing and expediting this audit.

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The Court: Haven't we been through this? I have indicated they have to have—they are entitled to a full and complete audit.

I am not going to make any effort here to try to delineate what they may look at and what they can't. We went

through that about five or ten minutes ago. I see no way to handle that. I rely on the Attorney General's good faith and their unwillingness to spend any more than is necessary. I am sure they don't desire to spend any more money than necessary, and I am comfortable—

Mr. Browne: Does that mean, in effect, that they are not limited to the pleadings in terms of the kinds of financial discovery that they are entitled to?

The Court: We have been through that. They are entitled to a full and complete examination, as far as I am concerned.

Mr. Horvitz: Your Honor—

Mr. Browne: Would the court consider any evidentiary presentation before the court makes an order as to the cost of any of these matters and the effect of these matters?

The Court: I will not. I am not going into any more evidence in this matter. It will serve absolutely no purpose, Mr. Browne.

As far as I am concerned, the Attorney General is entitled to a full and complete audit, period.

[31] Now, I have to rely, again—I repeat myself—I rely upon their good judgment and discretion as to what kind of audit will be made.

Let's move on, please.

This business of staff support, subparagraph D on page 7, line 9.

Mr. Chodos: May I explain that?

The Court: It is completely unreasonable to ask the individual defendants to be available, and I will not.

Mr. Chodos: Let me explain the point I am interested in, Your Honor. If we make a request—

The Court: Excuse me. Maybe you don't have to argue this. Let me tell you what I have in mind, and then I will hear from you and Mr. Browne if he wants to be heard.

I think there have to be names of particular individuals furnished to the Attorney General, who will be in the position and authority and knowledge and the knowhow to respond to requests for information and documents, and I think the names of those individuals have to be furnished to the Attorney General. I think they have to be people who are on the premises generally during the working hours, and who are acquainted with the ramifications of the records, so they can operate intelligently.

The only question is now should they be made available. It seems to me they have to be available during the working day, probably certain working hours.

I don't see any other way to handle it.

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Mr. Morgan: Do I understand Your Honor says you will not stay this order until after the receiver has been discharged? That is all I asked for.

The Court: I am not going to stay the order, period.

It will be signed when it is prepared, and that is the way it will have to go, gentlemen.

I will not delay this matter any further, and I want to move it along for the benefit of everybody.

What else do you want to raise, Mr. Browne?

Mr. Browne: All right. With regard to the other matters, Your Honor, on page 6 of the combined order, Your Honor, we have asked for, in Paragraph 3, that statutorily privileged material be protected under Evidence Code Section 900.

This would involve information, for example, of attorney-client—

The Court: I won't rule in advance on any of those matters, Mr. Browne.

Mr. Browne: We are asking that the Attorney General not receive that information.

The Court: I am not going to rule in advance on what is privileged and what isn't.

If there is something privileged, and you have a problem, you can go to—

Mr. Browne: How do we unring the bell?

The Court: I am not going to attempt to do that, Mr. Browne. You have your remedies, and I am not going to . . .

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[64] • • •

Mr. Browne:

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. . . [W]hen the court makes an order which requires the divulgence of material, which they waive a privilege or a constitutional right, that there really is not adequate remedy, no adequate remedy at all other than not to divulge that information, because the right of the people is determined to be inadequate.

It says, for example, in United States vs. Dickinson, from the United States Court of Appeal, that a witness cannot be punished for contempt of court for refusing a court order to testify, this is a waiver of the Fifth Amendment, if underlying order violates the Fifth, Fourth and perhaps the First Amendment rights.

The rationale of these cases is that once the witness has complied with the order to testify, he cannot thereafter retrieve the information involuntarily revealed, even if it subsequently develops that compelling the testimony violated constitutional rights.

The Court: Mr. Browne, that is a complete different problem, just completely inapplicable here.

Obviously, if there is a witness on the stand and the privilege is asserted, the court can examine what the matter is asserted to be privileged and make rulings.

I am not going to make rulings in advance. There is no possibility of that. You have already raised it, and I ruled on it.

Anything else?

Mr. Browne: The only point I raise, Your Honor, if they have a direct—

[65] The Court: I understand your point, Mr. Browne, I really do. You made it a couple of times. I don't agree with it.

Now, I made my ruling. It will stand.

Mr. Horvitz: May I ask a question. If they have a direct pipeline into the computer, and there is privileged information on the computer, how are we to protect that privilege? Once they are piped in, the privilege is gone, like that. We can't come back to—

The Court: How do you suggest I protect it?

Mr. Horvitz: We are asking there be something in the order that privileged communications—attorney-client privilege be designated in the order as privileged and put the burden—

The Court: I don't know what that would be, and I won't attempt to rule in advance.

Mr. Horvitz: There is no way we can protect those documents.

The Court: There is no way I can rule in advance either.

Mr. Horvitz: Then we have lost the privilege.

The Court: I don't think you have. That is something I can't do anything about.

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Excerpts From Hearing Reinstating Receivership

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Monday, March 12, 1979

[40] • • •

The Court: Go ahead.

Mr. Horvitz: All right. If I may.

The order we proposed contained a provision that any audit would be conducted with due deferences to the religious practices and observances of the members. We didn't get that. We asked that it be conducted with due deference to the priest-penitant privilege and that document should not be disclosed without the consent of the party in whose favor the privilege runs. We didn't get that.

The same for the attorney-client privilege. Your Honor did insert a provision that church membership lists should not be viewed by the attorney general, but once they were into the computer, they had those lists. So if they didn't look, it was strictly a matter of grace.

And there is a great deal of authority that constitutional rights cannot be given as a matter of grace by a public agency.

We asked for those things; we didn't get them.

Now, following the signing of your order on the 2nd of March, there were several telephone conversations between Mr. Browne and Deputy Attorney General Brainard, and I wish [41] Your Honor would hear testimony from them.

The Court: I am not going to take any testimony on that. It's really immaterial. This whole line of argument you are now making is completely immaterial to the issues before the court.

Mr. Horvitz: Well, may I just add that offers were made to furnish information in complete good faith but consistent with the pursuit of our right to appeal.

I will drop it at that, Your Honor, but I want the court to know that, and I want it to be of record.

Thank you.

The Court: Do you want to be heard, Mr. Tapper or Mr. Chodos?

Mr. Chodos: Well, Your Honor, let me just suggest one thing—and, again, it's up to Your Honor to place the construction on it that you think is most appropriate.

Obviously everybody in this case understood that if the court issued a mandatory injunction, it could be stayed by appeal; something that didn't even have to be said.

The sandbag is, lift the receivership and give us an order and we will comply with it. Why they don't comply with it, whether it's because of an appeal or whatever, is irrelevant. That's the point that I'd like—seems the most evident to me.

The Court: Did you want to be heard?

Ms. Peters: With the court's permission, Your Honor.

The Court: Yes, ma'am.

Ms. Peters: Again on behalf of Peat, Marwick, and [42] Mitchell and Company, it's my understanding as a result of these proceedings today that we are under an injunction of two orders. But first there was the previous indication by this court ordering us to make our work papers and other materials available to the attorney general's office for review.

The Court: Correct.

Ms. Peters: Now today in lieu of testimony and producing documents, we have been ordered to make available our documents to the defendants for review, and I assume that that would hold off or stay—

The Court: You will hold on to them until this Friday, through Friday, then you may comply with the trial order.

Ms Peters: Through Friday, the 16th. Thank you.

The Court: Let me back up here a moment, gentlemen. At the last hearing the defendants moved to dissolve the receivership, contending, as they had several times in the past, not only to this court but to others, that the People would be adequately protected by an injunctive order; that the receiver need not be present or be required to—required to have a receiver to accomplish an audit. And that if the receivership were dissolved, the defendants would fully cooperate with the securing of an audit by the People.

The court accepted these representations at face value and said it would assume the defendants were acting in good faith, and entered the order of—I think it was March the 2nd—dissolving the receivership, authorizing an audit by the plaintiff and also made certain additional orders which essentially required the cooperation of the defendants in [43] effecting the audit.

Almost immediately after the protestations of good faith and cooperation, the defendants filed their appeal to my order of March the 2nd, which, of course, stayed the mandatory portions of the court's order, but did not stay the prohibitory portions.

Now, unfortunately, without the mandatory portions of the court order, it would be very difficult, if not impossible, for the auditors of the attorney general to proceed with the audit.

I want to make it crystal clear at the outset that the defendants have an absolute right to take their appeal from that order, even though its practical effect might be to frustrate the court's order permitting the audit, and even though it is obviously contrary to the representations made to this court by defendants' counsel to the effect that the

defendants fully intended to cooperate with the conduct of that audit.

Now, the court respects the absolute right of the defendants to take this appeal, and it does not find—it does not find that taking the appeal, in and of itself, is per se violative of any representations made to the court by the defendants, or violative of any order made by the court. Nevertheless, the taking of that appeal after the removal of the receiver leaves the matter in this posture: The receiver is no longer present, or acting to protect either the assets or the integrity of the records, or to prevent the removal, destruction, or whatever, of those records or [44] any part thereof.

Secondly, the auditors of the attorney general are not in a position, from a practical standpoint, to go forward with that audit, because they are not in possession of the books and records, including any computer records; nor can they practically get access to them because of the stay of the order.

Now, the court has no way of knowing whether or not there will be any effort on the part of the defense to do anything to those records. But there have been allegations to that effect, and it's obvious to the court that the attorney general auditors acting—in conducting an audit, even assuming that they could conduct an audit at this point, cannot police or safeguard the integrity of those records.

Now, again I want to point out that I don't know what has occurred regarding the records up to this point, or will occur in the future. But, very candidly, the incredible resistance of the defendants to this audit after all of the assurances to the court that they would comply, have to raise a reasonable question in one's mind as to why they are resisting the audit to such a degree.

Now, it has to make a reasonable mind suspicious that perhaps someone out there doesn't want that audit, for whatever the reason.

And I certainly hope that when the audit is completed, as it will be, that everything will be found to be in order. But I don't know.

[45] There is one thing that is absolutely certain, that the audit must go forward and will go forward, and the integrity of those assets and the records are going to have to be maintained.

Now, the court feels that it is absolutely imperative that the status quo regarding the assets and records must be maintained at least pending the determination of that appeal, which has been taken by the defendants from the order. This cannot be done without either the receiver remaining in possession and control or the auditors proceeding with the audit with full access to all the books, records, computers and the like.

Pending the appeal there will be no receiver, nor any auditors, to monitor the integrity of those records unless the court acts at this time.

Now, the court—

Mr. Browne: Your Honor, could I just correct one point made on that?

The Court: No, sir, you may not. I'll let you speak when I have finished. I've heard from you, Mr. Browne. Let me complete my statement.

The court does really regret sincerely the necessity of me placing a receiver in this matter, but reminds counsel that I clearly and concisely and unequivocally told counsel that if this order was not complied with so we could protect the integrity of those records and assets, that the

court did reserve jurisdiction to place that receiver back in.

It is very apparent to the court that it has [46] again become necessary to place a receiver into the premises in order to maintain the status quo and the integrity of the records.

Now, the court therefore intends to replace a receiver in the premises to preserve the status quo of the records and the assets pending a determination of this matter.

The receiver is to continue in the performance of his duties until such time as the court determines that the receiver will no longer serve a useful purpose.

At such time as that appeal has been concluded, the court will again reconsider the matter. I don't know what the order at that time will be, but I will have to look at it at that time, seeing how the situation appears to the court.

Now, the court, as I say, intends to reappoint a receiver. The court will appoint, unless the parties can agree upon someone else—and let me just tell you now that I had several names of those who were prospective receivers in this matter. They were Mr. David L. Ray, Gilbert Robinson, Lowell H. Dugan, and Edward R. Borchard, Jr., Edward J. Costello, Jr., and Ronald M. Sirhigian.

Now, I am perfectly willing to see if the parties can agree upon a receiver. If they could mutually agree on any of those names or anyone else, I would have no objection. In the absence of any such agreement, I intend to appoint Mr. David L. Ray as the receiver in this matter.

Mr. Ray, I will tell you, I do not know personally, but he is an attorney; he is a CPA; he's had some 15 years

[47] or more as a receiver in many important matters in this county and elsewhere. And, unless there is an agreement mutually as to someone else, I intend to appoint him.

Mr. Browne: Your Honor, in light of the court's discussion here, I am wondering if we could have a few minutes before we proceed, because there are a few things that the court is not aware of, and we would like to make some comments to the court's suggested—

The Court: All right. We'll start at 3 o'clock.

Mr. Browne: Thank you.

(Recess.)

The Court: All right. Mr. Browne, you want to be heard?

Mr. Horowitz: May I make a preliminary statement, Your Honor?

The Court: Yes. Go ahead.

Mr. Horowitz: Thank you.

I would like to make some comments and state some objections concerning Your Honor's order to reinstate the receiver.

First of all, I would like to point out that in the order of March 2nd originally submitted to you, prepared by Mr. Chodos, you reserved—as requested, you were to reserve jurisdiction to reimpose the receiver with or without advance notice to any party. You struck the words "with or without advance notice to any party." But we have had no advance notice of Your Honor's intention to reinstate the receiver today.

So, first of all, I believe it conflicts with [48] the intent of Your Honor's own order of March 2nd.

Appendix Z—Excerpts From Hearing Reinstating Receivership

More fundamentally, we submit that there is a fundamental denial of due process. The imposition of a receiver is a very severe penalty, as you know from the previous hearings. We have had no advance notice; we have had no opportunity to present evidence; and when I wanted to tell you some statements before as to conversations which occurred you wouldn't even allow me to make them in the form of statements, although—we would like to have Mr. Browne make them in the form of an offer of proof so they will be in the record.

And we are herewith requesting before any receiver be reinstated, that we request a full hearing.

I would like to add another comment by way of objection to Your Honor's ruling.

You say because we have resisted the appointment of the receiver and a total audit and having the attorney general plug in and rifle through records for thirty years, in your mind it evidently raises a presumption of some kind of guilt. I believe that's a fair paraphrasing of Your Honor's statement, which is completely contrary to every doctrine I have ever heard about the law.

And Your Honor knows full well that we have appealed that order, we are presently in the Supreme Court on the basic fundamental constitutional question of whether the state has any right to engage in this audit at all. And it seems to me with that matter presently pending to say that this raises a presumption of guilt in your mind sufficient to reimpose a receiver is simply unwarranted.

[49] Is it not at least equally possible that we are trying to preserve constitutional rights here, the right to protect church documents, private documents, privileged documents. That is the reason that we have been resisting this.

Appendix Z—Excerpts From Hearing Reinstating Receivership

Next, I would like to point out that the prohibitory injunction which remains in effect pending the appeal prohibits the destruction of documents. And you have heard enough evidence, it seems to me, over the past 12 weeks by now to have some appreciation of the fact that the destruction of document argument is a red herring.

You have heard all of the evidence that can be brought out about the shredding of documents and the destruction of documents, and you yourself said there was simply no basis. You heard of a few inconsequential documents that had been thrown away and that was all.

It seems to me if this evidence indicates anything, it indicates that this church maintains detailed, careful records and preserves them assiduously. There's been no destruction of documents. There's going to be none.

And I submit that the prohibitory portions of the injunction are more than adequate to protect any rights involved.

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[62] • • •

Mr. Horvitz:

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. . . They ran up, I think, $55,000 very quickly, but there have not been guards there for some time now. There's not been a receiver there, I gather, for some period of time now, and there's been no destruction or loss of documents. There's really been no showing of any kind of destruction, of the taking of documents, of anything that isn't going to be there after the appeal has been concluded. There's simply been no showing in that regard. And when Your Honor simply reads in to the fact that resistance to protect constitutional rights and improper

motive and from that infers that documents are being destroyed and taken when the only evidence you have heard has been to the contrary, it seems to me there is no showing whatever to warrant the imposition of a receiver.

[62A] The Court: The prior order regarding the dissoluation of the receiver is hereby vacated. It is to be superseded by this order. David Ray is hereby appointed the receiver pendente lite over all the financial and business affairs of the Worldwide Church of God, Inc., Ambassador College, Inc., and Ambassador International Cultural Foundation, Inc.

Incidentally, I might tell you that I am looking at the prior order made in this matter, the original order, and I am paraphrasing some of it.

Those corporations will be hereinafter referred to collectively as "the church," except where the context otherwise requires. The receiver is to carry out the duties which are specified in this order: Bond is fixed in the sum of $10,000 for the receiver.

The receiver is to take possession and control of the church, including all of its assetε, both real and personal, tangible and intangible, of every kind and description, except as is otherwise provided by the court at this time.

In spite of this order of possession, it is further ordered that all of the authorized employees of the church shall be permitted to continue to carry out their duties and to continue all activities and operations of the church. The receiver nevertheless has the right and power to supervise and monitor all of the business and financial operations and activities of the church, but he shall not interfere unless [62B] he determines, in the sound exercise of his sole

discretion that such interference is necessary to avoid damage or loss to the church of any kind.

If he does so determine, then he shall have the right to take over management and control of the church to whatever extent that he, in the sound exercise of his sole discretion deems necessary.

Th receiver is empowered to hire and employ and retain lawyers, accountants, appraisers, business consultants, computer experts, security guards, secretarial and clerical help, and employees of all sorts to assist him in the discharge of his duties pursuant to this order. He is authorized to pay reasonable compensation to all of his assistants out of the funds and assets of the church, subject to the supervision of this court as will be provided herein.

The receiver is to take immediate possession of all books and records of the church, no matter where or in whose possession said records may be found. These records are to include, without limitation, journals, ledgers, bank statements, vouchers, invoices, logs, memoranda, and computer-readable data.

These books and records shall be made available for the use of the employees of the church in the carrying out of all their duties. They shall also be made available to the representatives of the plaintiffs in this action for use in preparing for the trial in this action.

The receiver is to supervise and control all the business and financial operations of the church, including [62C] both ordinary day-to-day operations, and extraordinary operations. While it is ordered that the receiver shall not interfere with the normal business and financial operations of the church unless he deems it, in the sound exercise of his sole discretion, to be necessary so to interfere. To the

extent he determines it necessary, the receiver has the right to take over any portion of the operation of the business and financial affairs of the church that he deems necessary in order to protect the church and its assets or to carry out his duties as receiver.

Except as otherwise provided herein with respect to Messrs. Armstrong, Herbert W. Armstrong and Stanley Rader, the receiver is hereby authorized to suspend or terminate, as he in the sound exercise of his sole discretion determines is necessary, any employee, officer, or agent of the church, subject to any contractual employment rights the suspended or terminated party may have, and to direct that said employee, officer or agent not be permitted access to any of the grounds or facilities of the church from and after the date of such termination or suspension.

Messrs. Armstrong and Rader will be permitted to continue their prior functions as representatives and authorities of the church unless and until they or either of them are removed by proper action of the church pursuant to its by-laws and articles; or unless they are removed by further order of this court pursuant to an application on the part of the receiver. If the receiver deems it necessary at any time hereafter pending the trial to move the court [62D] to remove either Mr. Armstrong or Mr. Rader or both, the receiver shall file a petition with the court on notice to the defendants. The court will hear the matters and make a determination on that issue. However, subject to their rights under the existing employment contracts which Messrs. Armstrong and Rader have, to the extent that those rights may hereafter be determined by the court, their compensation for services and their reimbursement for any expenses they may incur in the course of their employment

by the church, shall only be in such amounts as may be determined by the receiver in his discretion from time to time.

It is not the purpose or intention of this order to allow the receiver to interfere in any way with the ecclesiastical functions of the church, as distinguished from the college or the foundation, and the receiver shall not do so. This receivership will concern itself exclusively with the financial and business affairs of the church. The ecclesiastical affairs of the church shall be continued to be controlled and directed by its duly authorized ecclesiastical authorities. Notwithstanding the authority of the receiver to terminate or suspend persons from employment pursuant to this order, such termination or suspension shall in no way affect their membership or standing in the church.

In the event of any dispute between the receiver and the ecclesiastical authorities of the church, as opposed to the college or the foundation, over whether or not a particular matter is ecclesiastical, the plaintiff or defendants may apply to this court for a resolution of that dispute.

[62-E] It shall not be necessary for the receiver initially to take possession of, nor to deposit in any special receiver's account, the funds of the church now or hereafter received by the church; but the receiver shall supervise the deposits and disbursements of the funds by the church in accordance with the terms of this order. The funds of the church shall continue to be handled by its employees in the same manner and by the same bookkeeping, accounting and disbursing procedures as were in effect at the time of the commencement of this action, subject to the supervision of the receiver. But in any event, the receiver shall have the right, in the sound exercise of his sole dis-

cretion and at any time, to take possession and control of the funds of the church or any portion thereof required to carry out his duties. He shall take such possession if he deems it necessary forthwith on notification to the court and to the defendants and to deposit them for his use in the special receiver's account.

As soon as reasonably practicable, the receiver shall present a petition to this court outlining the nature and extent of the expeditures he has expended or which he anticipates will be necessary for the discharge of those of his duties which are peculiar to this receivership, and he shall seek approval or ratification of this court to incur and pay such expenditures. Pending the presentation and determination of said petition, the receiver is authorized to incur and pay such expenses as in his discretion are necessary or expedient to the immediate discharge of his duties.

The receiver shall not be required to seek advance [62-F] approval of this court for expenditures associated with the day-to-day operations of the church.

Until a final disposition of this matter is made, the defendants and each of them, and their agents, employees, or all persons acting in concert with them, are hereby enjoined and restrained from interfering with or obstructing the receiver in the discharge of his duties, or from withholding from him any of the funds, assets, properties, books, or records of the church.

Bond to stay the appointment of the receiver is fixed at $1 million. This may be paid from church assets without prejudice to the right of the court to assess the cost at a later time against any individual defendants as may be appropriate.

Counsel for the plaintiff is to prepare a written order for execution by the court, but nevertheless, this order

enunciated by the court orally and in court at this time is effective forthwith, pending the preparation and the signing of this written order.

Mr. Tapper: If Your Honor please, may the record show that Mr. Rader is present in court at this time.

The Court: For whatever purpose.

Mr. Tapper: I want the record to show, if Your Honor please, that Mr. Rader was present during the reading of the order.

The Court: All right.

Mr. Tapper: Thank you, Your Honor.

The Court: The record will so reflect. I believe [62-G] Mr. Ray is also present.

You may wish to talk to him, gentlemen.

Mr. Tapper: I wonder if Your Honor is open to any argument as to the amount of the bond to be posted pending appeal, because it is—

The Court: What bond? Posting of what appeal?

Mr. Tapper: I believe you set the bond to stay—

The Court: At $1 million.

Mr. Tapper: —the receivership at $1 million, Your Honor?

The Court: Yes. I think that is adequate.

Mr. Tapper: Well, I would remind Your Honor that the primary issue as to access to the records by the attorney general is one that really isn't quantifiable in terms of a $1 million bond, but if Your Honor feels—

The Court: You can always compute damages, counsel, one way or the other, not exactly scientific in the assessment of damages in any case.

Mr. Tapper: Very well, Your Honor.

(Proceedings concluded.)

Excerpts From Hearing on Depositions

REPORTER'S TRANSCRIPT

April 13, 1979

[8] * * *

Mr. Browne:

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* * * [Mr. Armstrong] has never had his deposition taken to my knowledge and based upon his age and his physical condition and his position with the church, he and one hundred thousand members do believe that he is God's apostle as the head of an ecclesiastical state, and we do have cases that say that the secular state requires that there be compelling reason and exhaust any other forms of discovery first before a deposition is taken; that this court exercise its discretion and require other forms of discovery first. I would submit, if this were the Mormon Church or the Catholic Church being sued, the court would vigorously defend the imposition of a deposition, and require some other form first, particularly, where these interests are so scanty in terms of what they are really asking about from Mr. Armstrong. Also, your Honor, I must comment that in the event that the Attorney General is going to make allegations that they said had been made in the complaint against Mr. Armstrong, and take the same approach that they took against Mr. Rader, I suspect that there is a good probability that we would accept the invitation of the Attorney General on the Miranda question. I don't know what his position would be there.

The Court: You know, gentlemen, one of the things that I enjoy about this case, and I will have to tell you that you cannot enjoy everything about this case, particularly, the volume of material that comes through the court, but one

aspect is the use of language, Mr. Browne, and when you refer to the first hour and a half of a deposition as [9] a brief session, I wonder if Mr. Chapman looked at it that way, and when you refer to the invitation not to answer from the Attorney General, I am going to be interested if the Attorney General viewed it just that way, but I want to tell you that I appreciate the way it's presented. Did I cut you short?

Mr. Browne: I think Mr. Brainard has the deposition transcript here, and, if I can just borrow it for a second, I think, I can read to the court precisely what was said with regard to the Miranda situation.

The Court: I have to figure it was a normal Miranda thing and, first, let's see what Mr. Brainard has to say, and, then, if you wish—

Mr. Brainard: As usual, after Mr. Browne finishes his little talk with the court, I don't know quite where to begin. There are so many points raised. With regard to Mr. Rader's deposition, I made it very clear to Mr. Browne and all of the assorted parties assembled for the deposition, that this was not a criminal proceeding, and we did not anticipate it becoming a criminal proceeding, and we made no determination in that regard, but it was a case where the allegations concerned the siphoning off of money from the church and the document, the deposition, once filed with the court would be a public document, and we want to make sure that he is aware of his rights in case he felt that he wished to exercise them for any reason. I repeated that statement to Mr. Browne two or three times during the course of the deposition that this is not a criminal proceeding, and we [10] are only attempting to make sure that Mr. Rader is aware of whatever rights he has under the Constitution. Mr. Browne had, I believe, stated every con-

ceivable objection to other questions at the deposition, and felt that, if he wanted to state that one, I wanted to make sure he wasn't overlooking one. That's all. Mr. Rader, of course, walked out of the deposition and refused to answer any more questions, despite the fact that the case law is quite clear that you can't just walk out on a deposition and refuse to answer questions on the basis of your rights against self-incrimination, but you must do so on a question by question basis. We have filed a motion, your Honor, to compel Mr. Rader's deposition testimony further. I had hoped to have it heard on Monday but pursuant to, apparently, a new policy of the court, we couldn't get an order shortening time to do so. The original of the deposition has been lodged with the court, and, I presume, the clerk has it in one of her cubicles some place, but, as I stated, this is not a criminal proceeding. We don't perceive it as a criminal proceeding, and the reading of the rights was strictly a precautionary measure. With regard to the other depositions, as I stated in my papers filed yesterday, and I apologize for that, but Mr. Browne's declaration signalled his outrage, the stonewalling of his discovery, after, of course, he has continually stonewalled our discovery, prompted me to put something in writing to the court. No one from my office, and I state it categorically, has spoken to any of these deponents regarding the taking of the depositions and the propriety of the serving of subpoenas [11] and notice of. As I understand it, an attorney for several of the parties here has called Mr. Browne and called us on the phone and said that they are not going to appear because they were not properly served. Another attorney has called Mr. Browne, I understand from Mr. Browne, because I haven't talked to them, saying that two or three of the other deponents are not going to appear because

they have not been properly served. I am not responsible for the fact that they can't serve these individuals. We have not advised them to either avoid service or to accept service. I advised the court at the time he set the depositions that we had no control over these witnesses; that they would have to get them. With regards to Mr. Armstrong's deposition, this is not a case of a pope or head of the Mormon Church or, certainly, not the case of a governmental agency where we have a figurehead and someone is taking care of policy. This is a case where Mr. Armstrong has percipient knowledge of the matters that we want to inquire into. * * *

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Excerpts From Hearing on Motions

REPORTER'S TRANSCRIPT

June 15, 1979

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The Court: You can relate that as you choose. We have three motions and I would like to consider the motion, plaintiff's motion for a protective order, and for an order of partial subpoena duces tecum first, with respect to Attorney General George Deukmejian and former Attorney Evelle Younger, and unless, unless the moving parties have abandoned their position, I would like to indicate a tentative ruling, and, then, we will see what comment you would like to make.

Mr. Abbey: I would be happy to hear your tentative ruling.

The Court: All right, it seems to me that the motion to quash for a protective order, as to this particular situation, should be granted for this reason. I don't really think that a sufficient showing has been made to justify this production and the taking of these depositions. I think you, certainly, can. By you, I mean the defendants can, certainly, conduct discovery by the use of written interrogatories and the answers or responses to those [6] interrogatories could, then, might well, then, produce what the court could consider as good cause for the taking of one or both of these depositions. Now, I am not making any ruling at this time. I don't intend to make any ruling as to your right to obtain any particular document that you might consider covered by your subpoena duces tecum, but, I think, you are going to have to go after them in the posture of interrogatories and requests to produce. If there is any objection to the proper notices to produce, the court would consider mat-

ters, anything raised about the question of confidentiality or on any other basis, either on an item by item or category by category standing. I think, I think that the plaintiff's position is sound at this time as to both Mr. Deukmejian and to his predecessor, since you really, I think, are talking about, at least, the court is talking about it, that you are looking for responses from Mr. Younger as Attorney General, and, I believe, the only way that he could act was as Attorney General at that particular time. So, I guess, you are the one to go forward.

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The Court: I am sorry, I shouldn't ask you to say something and, then, interrupt you but forgive me. I see the declarations and I will put them in the file. Declarations don't really take the place of discovery and I don't consider that they do. I have in mind that anybody who is Attorney General isn't going to know everything about every case, although it's entirely possible that he may know of a certain case than he would about the general run of the mill cases. • • •

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The Court: Let's hear from the other side?

Mr. Brainard: I rather not respond to our mischaracterization about our position. Our position is that there are individuals in these charities which have a fiduciary responsibility to deal with charitable assets in good faith, and that they have an obligation to account to the beneficiaries of the charities, which is the public. Section 917.8 refers to corporations and members thereof. There are no members of the charitable corporation excepting the public as the beneficiaries thereof. • • •

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Excerpts From Hearing on Stay of Defendants' Discovery

REPORTER'S TRANSCRIPT

July 6, 1979

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Mr. Cordi: Your Honor, I think the plaintiffs are entitled to priority in their discovery in this case. I think the court has found that and we simply are not getting it. We are forced to respond to myriad discovery efforts on behalf of the defendants which are keeping us at bay while we are unable to conduct our own discovery. That's really the crux of the matter.

The Court: Are you then asking, let me see if I understand what you are asking for this morning, are you asking that no discovery on the part of the defendant proceed until you can take the deposition of Mr. Rader and/or Doctor Armstrong, or are you asking that certain, that certain depositions not be, that are scheduled, not be taken?

[6] Mr. Cordi: I think, more specifically, the latter, your Honor. It's not just depositions but there are several depositions scheduled by the defendants as of now. We believe that they should be held in abeyance. There are one hundred fifty-one interrogatories pending answers. We believe that they should be held in abeyance. The problem we have is that we are not getting a single bit of discovery from the defendants and yet we are by and large complying with their discovery requests, and they are by and large able to conduct their depositions and keep us from questioning the deponents whose depositions they are taking so far. This is well within the court's discretion in view of the obstinancy of the defendants to make any discovery

to us however justified they may feel the grounds are. We, of course, agree to disagree on that.

Mr. Browne: Can I be heard, your Honor?

The Court : Yes.

Mr. Browne: Thank you.

The Court: First, let's talk about the discovery other than Doctor Armstrong, and, then, we will get to Doctor Armstrong?

Mr. Browne: All right, we are in the posture, now, of having a great deal of discovery, which has been court ordered. For example, we tried on four different occasions to obtain the depositions of Alvin Timmons and Shirley Timmons and David Morgan and Hilel Chodos and Chester Roberson. We finally got an order from Judge Savitch to go forward with that discovery, and they are now set beginning [7] next week, July 17th, is the first one. To frustrate that discovery at this point doesn't make any sense whatsoever to me. Ted Armstrong also didn't show up for his deposition. I also brought the court current on that. We, finally, got an order from the court in Tyler, Texas. That's set for July 30th. There are two or three other depositions noticed by our firm into August and we had enormous trouble serving all of these people. They have all evaded service of process. We had to stake them out. It's been very time consuming and very costly, and we don't control any of these people. In addition to that, there are interrogatories outstanding, but discovery has been a two-way street, your Honor. The Attorney General, maybe he's inadvertently omitted to recall this, and I can understand it, there have been several people from their firm working on this case, and not all of them are privy to everything else but, for example, they have noticed the

deposition of Henry Cornwall, and that's to be taken next week. They have noticed the deposition of Ralph Helge. They have sent us a very elaborate request for production of documents from Helge to be produced, by Rader to be produced, by Cornwall to be produced, and they have also noticed a motion in this court to turn over documents that are in the possession of Bunner from Peat, Marwick and Mitchell, which this court knows about, to have documents turned over by Mr. Kuhn; to have documents turned over by Mr. Cole and Mr. Antion; and they also sent us a very elaborate set of interrogatories which we have just finished the answering and responding to. So the idea [8] taht this discovery is just one way simply isn't true. I would submit to the court that they can and we can proceed with our discovery while Mr. Rader's writs are pending. We have moved promptly from this court's order. We haven't attempted to purposely delay, and I don't think it would be fair to penalize Mr. Rader or any of the other defendants we are representing by staying discovery, because we are going up to the Supreme Court asking for a petition for writ of mandate. I think that's all right. Now, your Honor, if the discovery is delayed, I believe, that that will have a very profound impact upon the church generally, because the church is daily undergoing injury, which we need to complete our discovery on so that we can make motions for summary judgment in this court on a variety of areas, and we have detailed in the past some of this irreparable injury that is going on. It involves their credit lines and their vendors; their contributions were down because of letters that were sent out by the receiver to the ministery as well as the members; the sale of the Big Sandy campus, which they had going, was terminated because of this law

suit, and they are now spending one hundred eighty thousand dollars a month just to maintain that campus, and that's been a deficit. Their youth programs, they have seventeen thousand kids that they take care of with athletic, music, literature and art and we had to totally eliminate that national program and cut down on the local programs. There's eight-day convocations, fees of tabernacles that they have each year, which is the highlight of the religious program, and that [9] they usually subsidize, three to five hundred families to pay their way to go there because they can't afford it. That program has been curtailed. They usually spend one million and a half dollars for welfare and that's been curtailed. They have terminated one hundred church employees because they can no longer keep them on. Their Plain Truth which they have a distribution of three million a month, they had to curtail by forty per cent and cut down the number of pages. They have an education program for the handicap, the blind and the death, and they had to curtail that. Their program on alcohol has been curtailed. I could go on and on. The point is that if we stay discovery for any length of time, that's going to inhibit us from moving forward on motions for summary judgment, and that's going to penalize the foundation, Mr. Helge and Mr. Cornwall and a lot of other defendants, and I don't think that's appropriate, simply because Mr. Rader is taking a writ to the Supreme Court in a timely manner. So I would suggest that, since they started their discovery and we have ours on going, that the parties be allowed to continue in that vein, particularly, since most of this discovery is out of our control.

The Court: Mr. Browne, it's a little hard for me to really anticipate motions for summary judgment when we are

into now the seventh month of the litigation. We are completing the eighth volume in our pleadings file, and I am not sure that we are yet at issue, so I am not sure how soon a motion for summary judgment might be feasible, but you make a lot of representations about damages being done [10] to the church but you have not been willing so far, at least to my understanding, to make available one single financial document to substantiate any record with respect to the church, and, if there is any feeling that I have about the Worldwide Church of God, outside that I am sure that it is a church, that it is imminently viable. It seems to have a great deal of vitality and energy and push.

Mr. Browne: Your Honor, may I bring you current on one point?

The Court: All right.

Mr. Browne: In terms of the documentations that the Attorney General has, the Attorney General pursuant to a court order, which this court made a month ago, gave us a list last Friday of the documents which it has in its possession, eight hundred nineteen documents, your Honor. Thousands and thousands of pages including the most detailed financial information on the church going back ten and fifteen years. Memos that we have not yet been able to find ourselves. Perhaps, they have the originals going from Mr. Armstrong and other people and back and forth. They have a wealth of information. I don't know how they got it. I will leave that up to speculation but this idea that they don't have any information for an accounting is simply not an accurate statement at this point, based upon what we, now, know they do have. So—

The Court: Mr. Cordi, do you have a wealth of information?

[11] Mr. Cordi: Your Honor, we do have the documents that counsel indicated, however, we don't know how the mysterious Mr. Gotoh spent over two million dollars on church funds on foreign travel.

The Court: I am not asking you for a wealth of detail this morning. In other words, you do have documents. You do have something to go on.

Mr. Cordi: We have documents. The question of whether we have something to go on is something else again. I think the specific things that we want to know about have not been answered by the documents that we have, and the questions that I went over this morning about corporate authorization and Mr. Armstrong's control are very, very pertinent and very important to determining whether Mr. Rader actually had corporate authorization in the first instance to engage in all of these self-dealing transactions.

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[13] • • •

Mr. Browne:

• • • Number one, Mr. Armstrong, I believe, is in much the same position that Mr. Deukmejian and Mr. Younger were in. There is an analogy there and you recall we wanted to take the depositions of Deukmejian and Younger and the court said, "No, you haven't made a sufficient showing of good cause. We think you ought to proceed first by written interrogatories." And, your Honor, we would ask the same kind of treatment insofar as Herbert Armstrong is concerned. He's into his eighty-seventh year. He had a massive coronary two years ago. He is still working but his work is greatly reduced in the sense of

physical stress. I mean he's not travelling nearly as much as he did before. In fact, he used to travel three hundred days a year. Since his heart attack for the first year he didn't travel at all, and, I think, he has had one trip in the last six months, perhaps, but the point is, your Honor, that there is compelling reason why interrogatories can't be sent out first. Mr. Cordi in his moving papers and, again, this morning, indicates that he had certain questions he wants to put to Mr. Armstrong and on page two of his papers . . . these are the questions . . . primarily, whether or not the extraordinary amounts of money expended by trustees and officers of the charities were revealed to and authorized by the corporation can only be ascertained by inquiring of same from Mr. Armstrong. There's no reason why that can't be handled by interrogatory. • • •

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Mr. Cordi: May I speak to that, your Honor?

The Court: Sure. Excuse me, you know, I never know how these things are going to go except that I almost can be sure that this one will go a little longer than I plan. So when we finish this hearing, I will ask you and tell you counsel that are here on uncontested matters that we will hear those before we get to the rest of the calendar. Go ahead.

Mr. Cordi: Your Honor, I was looking for a list of the question that we put to Mr. Rader because Mr. Browne indicated that if we asked the same sort of questions of Mr. Armstrong, he would object, and those questions all had to do with the financial transactions that are the subject matter of this suit. So you see where the result is go-

ing to go, and, now, Mr. Armstrong in Mr. Browne's eyes has graduated from being like the pope but like a head of state, and, therefore, we can't take his deposition.

The Court: I don't think that's inconsistent with his position. I find it very consistent.

Mr. Cordi: I suppose on one level it is, your Honor. I think it's pretty clear that whether or not the deposition is taken has nothing to do with advancing the public state, and that's the reason why a head of state is protected [17] under most circumstances from that sort of thing.

The Court: All right.

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Excerpts From Further Hearing on Stay of Defendants' Discovery

REPORTER'S TRANSCRIPT

July 19, 1979

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Mr. Cordi: Your Honor, as Mr. Brown is often fond of saying, we do have an additional housekeeping matter that we would like to bring up with the court.

The Court: I hate to see some habits proliferate.

Mr. Cordi: I sympathize. Counsel and I have had a disagreement over the meaning of your order of July 6th, the ruling upon our application for a protective order and to hold Mr. Rader in contempt for failure to appear at his deposition. Our application for a protective order was for a stay of all discovery.

The Court: Wait, just a minute, and let me get my notes on that particular matter?

[5] Mr. Cooper: Is it your Honor's intention to sign the order that I submitted to you so that I will have something to serve on Mr. Gibson?

The Court: Forgive me. I didn't get past your signature on the declaration, so, now, I will have to look at the order. Probably so.

Mr. Cooper: Thank you.

The Court: All right, I have before me, now, the portion of the file that has the minute order of July 6th, and I have my notes with respect to that.

Mr. Cordi: I have not yet seen the minute order of July 6th. I assume it's in the mail but, your Honor, we had asked in our application for a stay of all of discovery, and you had taken the various categories of discovery that were,

then, pending, and treated them one at a time, and, as to the pending depositions of the defendant, it was our understanding that you had ordered that they will go forward, and, I think, everyone is in agreement on that. As to the pending interrogatories, you ordered that, according to my recollection, that they will be stayed really until further notice or that they will be stayed until Mr. Rader gives his deposition but, at any rate, they will be taken up again on August 1st for the court to consider further. Now, there is one final category of discovery, which was pending at the time of our hearing on July 6th, which although is encompassed within the application, I neglected to mention, specifically, and, I think, perhaps, the court overlooked it, and that was the fact that there was, then, pending and is now pending [6] the defendants' notice to us to produce documents, and it had been our intention, and, I think, as expressed in the moving papers, to ask the court to stay the production of documents on the same basis as the court stayed our answers to interrogatories, but in the heat of argument, I think, I forgot to, specifically, mention in an oral argument, and, I think, perhaps, the court overlooked it. I think Mr. Brown is of the opinion that, well, your ruling encompassed that and by implication denied that but I wanted to bring it up with you today, and get a clarification.

The Court: I have, I think, a pretty good recollection of the state of my mind at that time. It was my intention to stay the discovery with respect to the interrogatories, with respect to any other matter, which would have included the production of documents other than the depositions which had been set, which had been the subject of various delays for a number of different reasons in all probability in which had been set with some difficulty, and I felt it was

not appropriate to stay the taking of those depositions, so we will make—

Mr. Cooper: Can I be heard for just a minute?

The Court: Go ahead.

Mr. Cooper: Unfortunately, it seems to me the same difficulty has also attended the production of the documents. We served a notice to produce some months ago to which no objections were filed, no response was made and no documents were produced, and that the hearing on the motion to compel the production, the court concluded that the form of the motion [7] did not comply with the court's rules and denied the document production on that basis. Subsequently, we attempted to cure the defects in them in the form of the motion. Basically, we reserved the notice. Again, I don't recall this time if objections were filed or not but another motion to compel was brought at that point, and the court concluded that it would order production of some of the documents, and, as to others of them, the requests were overly broad, and had denied the motion on that basis. So we served yet another request for production of documents, much more tailored and designed to meet what the court felt was objectionable with the second set, and that is that document request that is currently pending. So we have been trying to get the same documents for three to four months now. My understanding of the situation always has been that the only type of priority and, therefore, the only type of protective order, which, generally, is issued in connection with an order of discovery which is preservation of order of deposition is based upon the date of service of notice, which is found in Section 312 (g) of the discovery manual. In all other cases, generally, there has to be a showing and a strong one, generally, of good cause to delay

production. Now, my understanding is that Mr. Brown offered the Attorney General's Office if they needed an extension of time to comply with the document request, he offered an extension of time, and on the record I repeat that offer of a reasonable extension of time if they need it. What concerns me the most is my understanding of what they want. They want an actual stay of their [8] obligation to produce or even respond until August 1st, and, then, assuming at that point that the court decides that Mr. Rader's deposition should be resumed and orders it, then, they will want a stay based until after that is completed, and on and on and on and on and I don't quite frankly see that that is justified under the circumstances. We have been trying for an awful long time. It's their burden to show the good cause and I don't really see that they have done it. If the court wants to give them an extension to August 1st, I would have no objection to that or even past August 1st. Mr. Brown's concern was that he didn't want the Attorney General's Office to attempt to use an extension as a basis for arguing that they should be entitled to a stay.

Mr. Brainard: Your Honor, —

The Court: Excuse me, we are not going to spend a lot of time on this because I am going to ask the clerk to make a nunc pro tunc entry referring back to the July 6th hearing, since I do believe that a sufficient showing was made in the overall posture of this case, which does not run, does not proceed as a normal case, at least, in my, as the late Judge Gitelson used to say, in my humble opinion, and we are going to take a frequent look of things on August the 1st, and I have high hopes that we can all see some progress and some opportunities for progress at that time. So we will get a nunc pro tunc order that the production of docu-

ments is also stayed to August the 1st, and we will see what is appropriate at that time, and I wouldn't say that your prognosis as to what the Attorney General might be requesting [9] at that time would be out of line but the ruling, the nunc pro tunc order isn't prejuding what the court will do at that time.

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Excerpts From Hearing on Motion for Judgment on the Pleadings and on Stay of Defendants' Discovery

REPORTER'S TRANSCRIPT

August 7, 1979 and August 8, 1979

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Mr. Browne: • • •

This letter is signed by the Attorney General, Deputy Attorney General in this case, and it says, "This is an action brought against individual trustees of these three charitable corporations; not against the church. Stanley R. Rader, petitioner herein, is one of those trustees. The church is named as a party only because it is an indispensable party vis-a-vis the relief prayed for." The importance of this letter, your Honor, is that it highlights that the church is a nominal party in this case, and, I think, that that is particularly significant when we look at the relief which is devastating, the Attorney General wishes to impose against the church. The case that we have got here has probably had more than one hundred thousand pages written in the court file, and we are really talking about a couple dozen words that everybody has been trying to interpret, and those couple dozen words is that Congress shall make no law respecting the establishment of a religion or prohibiting the free exercise thereof. Those couple dozen words are, and we are really coming to terms with, and the cases have said interpreting those words is that there must be a separation of church and state. There must be a wall between church and state. There must be no entanglement of church and state. These are shorthand definitions of what that means. So in light of those statements and the

statement in this letter that the church is a nominal party, let's look at what the First Amended Complaint asks for, and there are a lot of new things that they have asked for. There are eleven [4] points that I wish to summarize briefly here, many of which are not in the first complaint filed. Number one, and this is repetitive in the sense that they want an accounting. It's clear that they asked for an accounting in the first place. Number two, they want to remove certain officers of the church. Number three, and this is totally new, your Honor, on page ten of the complaint, paragraph seven, I am sorry, page seven, paragraph ten, they make the statement as follows: Referring to these, to the church and its related entities, the ultimate beneficiary in each instance is the public, which means, generally, from all charitable endeavors, none of the defendants, that would include the church, the college and the foundation, has or may legally have any proprietary interest in the assets and properties of the church, the college or the foundation, nor in their books and records. That statement is not found anywhere in the original complaint and they are really saying that the state owns it all or the public owns it all but the church doesn't, and, I think, that this is a very prime indicator of this relief that they seek beyond this. It's based upon the assumption that the church has no proprietary interest in these items, and, I think, that that is critical, because in England common law, which is what the Attorney General says it is relying on in asking for this accounting in substantial party, is where the king was the head of the church and state. We don't have that here. In fact, the first amendment prohibits it. So we have this accounting, as I mentioned. We have got the statement here [5] and they

want the court to give its approval that the church, the foundation, the college have no propretary interest in any of the property or the books and records, and, then, they want to remove the officers. What else do they want to do? Number four, they want to rescind employment contracts that have been approved by Mr. Armstrong and ratified by the Board of Directors. Number five, they want to restrain employees from serving Herbert W. Armstrong according to his will and choice. Number six, they want to change the Board of Directors of the church for an "independent" board, and that flies in the face of the by-laws which provides that the Board of Directors serves at the pleasure of Mr. Armstrong. They want to change that. Number seven. They want to give the members the right to vote. Almost, I suppose, like women's suffrage. Right now there is a hiearchal church. The members join it knowing that Mr. Armstrong exercises control. They want to change this to a Congregational concept. Number eight. The Attorney General in this pleading wishes to supervise all aspects of record keeping of the church operation. Number nine, there's a cause of action in which the Attorney General seeks to have a receiver installed to operate the church and take possession of all property and assets. Number ten. Complaint asks for an injunction against selling, hypothecating, transferring or conveying any property of the church. Number eleven, and lastly, they want to forever prevent certain church employees from ever holding office in the church again or any other charitable foundation. Now, with this relief, I think, the court [6] is faced with the question, does this in the aggregate amount to an entanglement? Does it amount to crossing the line of separa-

tion of church and state? Does it amount to prohibiting the free exercise? This is a unique case. I will be the first to tell you that. There's never been a case ever decided in this country where this kind of relief was sought. Now, we may disagree, and, I think, the court has indicated before that, perhaps, the Attorney General has a right to the accounting. I would respectfully disagree on that approach. I would urge the court to consider what the Attorney General is asking for beyond that. This complaint goes far beyond the concept of a simple accounting. Every case that the Attorney General has cited, like the Queen of Angels case, all deal with either property disputes where the court has stepped in and said, "We have a right to adjudicate whether this particular piece of property belongs to the main piece of property or the splinter group." The Queen of Angeles case involved the operation of a hospital where they said this was a secular kind of operation. Yet the problem remains. What if there is blatant theft? What if there is blatant misappropriation? How does the court handle this? What supervision, if any, does the court or the State Attorney General have, and I am not suggesting that in an appropriate case there is no relief. What we are suggesting is that the court must balance the harm to the church and the membership versus the wrong that seeks to be changed or righted, so to speak, and the court must require the state to take the least intrusive vehicle to [7] change or turn around the situation which would be in one situation the use of our criminal laws, and we have cited cases for that. The Cantwell case that suggests that or an administrative proceeding to revoke the tax exemption of the case or even, perhaps, a civil fraud suit by the members

themselves if they feel that they are not having their funds used properly. One thing that, I think, is interesting in this complaint, your Honor, which is nowhere to be found, and I don't think that we have raised this before, is the fact that there is not an allegation or even a hint that the members do not know what is happening or why the money is being spent or for what purposes the money is being spent. This is to me a very critical point because it's my concept, your Honor, that in the area of religion we should be dealing with more the biological approach, and that is if the church engages in a policy that the members know about and do not approve of the evolutionary process will be that they will break away and go to another church more to their liking. It happens all of the time. This is not of record but the Attorney General knows that, and that is that Mr. Armstrong has pursued this endeavor, the policy of spending money for trips abroad and fine arts for the church, buying art for the church, etc., for three decades. Garner Ted Armstrong testified that in 1974 thirty-five ministers and two thousand members left because of that but the point is, that is outside the record, the point is that there is nowhere an allegation that the members in any way were defrauded. They know precisely how this money is [8] being spent. Now, let me move to a different point on the motion. There's another reason why the motion for judgment on the pleading should be granted, and I gave the court our first reason, and that is the scope goes way beyond the question of entanglement. The second is this, your Honor. Virtually every allegation in the complaint is made on information and belief; every charging material allegation, and the law is pretty clear that information and

belief may not stand up where there is actual or presumed knowledge of the facts. Now, since the hearing on the last demurrer, something occurred which I consider to be very, very revealing and enlightening which we did not know about. The court will recall that we made a motion requiring the Attorney General to turn over documents belonging to church in its possession. When we learned that they had certain financial statements that we had never seen before, and the court granted and denied the motion in part and said that they did not have to turn over documents, but they had to list the documents that they had in their possession, if the court will recall that, and a couple weeks ago we received their list of documents. Your Honor, it's in the file but it is fifty-four pages long their list of documents, and the list encompasses eight hundred and nineteen church documents which they have in their possession, and I should tell you, your Honor, preliminarily, that many of these documents we cannot find. Many of these eight hundred nineteen documents we cannot find. Since we have got the list, we have tried to find our own copies, and we have [9] no idea how they obtained these documents, but I want to take a minute and tell the court what these documents are. I am not going to read you eight hundred nineteen but I am going to give you some categories to let you know what information they have in their possession. Number one, they have tax returns going back for ten years for the church, the college and the foundation. They have budgets of these entities. They have financial reports going back many years for each of these entities. They are intra-church, college, foundation reports. They have financial statements both audited and unaudited for the church, the

college and the foundation. They have letters going from Mr. Armstrong to his son, from Mr. Rader to Mr. Armstrong, from Mr. Armstrong to Mr. Rader, dealing with the most intimate information dealing with the church, not only in its operation but in its policy. They have memos that fall into that same category. They have letters from the accountants of the church back and forth to the church on church financial matters. They have attorneys correspondence, which would be clearly protected by the attorney-client privilege, going from the church to the attorneys and back and forth, not only to Mr. Helge's firm but to outside lawyers as well. They have reports that deal in detail with church expenditures going back as much as twenty years. They have memos dealing with the internal control procedures of how monies are to be handled. There are communications between priest-penitent that they have. They have memos, documents, dealing with the aircraft leases that they have been discussing in their [10] pleading. They have tax returns of Worldwide advertising. This is the other entity that they claim that Mr. Rader had an interest in; plus all sorts of documents dealing with the program that the church maintained, and the business relationship between the Worldwide Advertising and the church. There are all sorts of data on the Beverly Hills home of Mr. Rader. They have the compensation records of all the officers. They have the executive payroll. They have check stubs to the executive payroll. They have by-laws and articles of the church, the college and the foundation. They have income comparisons for each year based on what members have donated. Cash flow forecasts for five years. They have lists of bank accounts of the church and the college. They

have an analyses of income and expenses going back many years for the church and its entities. They have charts and graphs of the church's growth for ten years. They have statistics going back many years on the donations of all the members, comparing the donations that they have given over the years. They have holiday offering comparisons of various years. There are reports for cash receipts and cash disbursements for the church and the college. There are financial reports for executive management consultants. There are property leases, promissory notes and church audit work papers made by the accountants. There is a computer lay-out description which is a road map now of the computer, which has all of the information in there described, which I have given you. Balance sheets and executive expense analysis for all executives. [11] Now, these are just categories based upon the categories that they have indicated but they go back, they go back years, and, as I say, many of thse we don't even have. Now, I want the court to consider the fact that, number one, they have this information in light of the letter where they say that the church is only a nominal party, and in light of the fact that they say that this is really directed at all of these individuals, and further and more importantly, in light of the fact that they still allege information and belief, and, as I say, your Honor, I think the law is clear. Information and belief allegations cannot stand up where there is actual or presumed knowledge of the facts. Now, I can only assume one of two things when this is alleged on information and belief, that it is all conclusionary, words like misappropriation, pilfering, syphoning; all conclusionary. Either they don't have any evidence of wrong doing or, if they

do, they are not willing to plead it at this juncture, and, I believe, your Honor, in fairness, that the Attorney General must come forth at this point and tell us what they have got in this pleading, and not put it on information and belief and in conclusionary form. Lastly, your Honor, I feel that the court must consider that this is not a case where a pack leader in the Boy Scouts of America is alleged to have done any wrong doing. We have a church here and these members believe spiritually in their leader, and the court must use a scalpel, not a sledge hammer, and the Attorney General must use a scalpel in carving out whatever relief might be appropriate, and, [12] I think, the basic issue on this first amended cross-complaint, which I say goes far beyond what they alleged before, is whether they can get the massive relief that they have requested, all of the way from the accounting to the changing around of this church to the point that, I think, the state has viewed the church as an entity that a court might look at if it were in a bankruptcy proceeding. Let's just reorganize it. Change the entity in a way that it suits the court. I don't think that that is appropriate in a First Amendment case.

Mr. Horvitz: May I add something, your Honor, on this point?

The Court: All right.

Mr. Horvitz: Very briefly. I think Mr. Browne has taken the overview. I would like to point out two or three specific points. Concerning all allegations virtually being on information and belief, I would like to call your Honor's attention to a statement by the Attorney General that is exactly to the contrary of his pleading. It's in the case of Lopez vs. the State of California, which is the related tax-

payers suit in this case. On April 10th of this year in a document entitled Response to Order to Show Cause re Preliminary Injunction, and, then, again, I understand, within the last two weeks in a summary judgment in that action, the Attorney General says the following and this is a quote:

> "In the latter part of 1978, the California Attorney General undertook an investigation into the financial affairs of the Worldwide Church of God, [13] based in Pasadena, California, certain other non-profit charitable corporations associated therewith and various officers, directors and employees thereof. This investigation revealed to a substantial certainty that Herbert W. Armstrong, the Pastor General of the Worldwide Church of God, and Stanley Rader, the Treasurer and general counsel of the church, among others, were guilty of misuse and misappropriation of millions of dollars of church assets."

They say to us with substantial certainty that their investigation back in 1978 established these facts. They have now acquired hundreds of additional documents. Why are they permitted to continue to plead on information and belief? To further indicate the contrast, if you look at this complaint, this first amended complaint, while in the Lopez case the Attorney General says that they knew to a substantial certainty that Herbert Armstrong was stealing. Listen to what they say at page eleven of this First Amended Complaint starting at line two, referring to Mr. Armstrong.

> "The exact nature and extent of his involvement and participation in the diversion of charitable funds hereinabove alleged, at the present time or in the past is currently unknown to plaintiff."

Well, which is it? Is it unknown or do they know to a substantial certainty. It seems to me that that kind of game playing with the court and with the church and with the parties shouldn't be tolerated. I don't think it should be tolerated by a private litigant of the church, [14] and it certainly shouldn't be by a public entity. In paragraph eighteen of the first amended complaint they refer to the fact that since this action was filed, defendants Rader and Helge have done everything within their power to delay plaintiff access not only to the books and records to the church but to individuals with knowledge of the operation of the affairs, etc. What they are saying is that defendants Rader and Helge have resisted this law suit and asserted their rights. That's essentially what it comes down to. In paragraph twenty, they, then, say that they acts should bar them from holding church office. I think that's shameful. What they are really talking about is the fact that they are resisting this law suit, and when resistance to a law suit by asserting a first amendment right becomes a ground for removal, it's shameful and it's shameful to have that in the complaint in the first instance, and shameful to allow it in later. One other point. In paragraph twenty-two, the Attorney General requests that all of the individual defendants, I guess they leave out Mr. Armstrong:

> "Should be perpetually enjoined and restrained from serving as officers or directors or in any other capacity

with respect to church, college, foundation or any other California charitable trust or organization."

Perpetually enjoined. Does your Honor have the authority to perpetually enjoin them from holding church office based on a civil proceeding? I would submit that even if they [15] convicted murderers, it would be within Christian doctrine for Mr. Armstrong to grant them forgiveness to allow for redemption and to put them into office if he wanted, and, if he can do that, then, of course, the court can't grant this relief. The court can't grant any relief along that line. That is, fundamentally, a religious matter. That is not a civil matter. I would go farther or maybe, perhaps, not as far. Let us assume for purposes or argument that there was stealing, as indeed there was with one of the men who gave information to the state, and Mr. Armstrong said, "I will forgive you for that, as he indeed did with this man. Can he do that? It's certainly within the Judeo-Christian concept that he can. That's a fundamentally religious decision and, if Mr. Armstrong can make that decision, then, this court can't make a contrary decision, and those types of allegations and requests for relief in the pleading have no basis because they are beyond the jurisdiction of the court. They are into fundamentally religious matters. A case of total entanglement.

The Court: All right.

Mr. Horvitz: One final point, and this was not before the court on the demurrer, is that there have been a number of United States Supreme Court cases which have come down since the previous hearing, including the case of the United States vs. 564.5 acres in which the Supreme Court

said flat out that church property is not dedicated to a public purpose, and, if that is the case, then, my question is what standing does the Attorney General have in this.

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Mr. Helge:

* * * If the public has any benefit at all, your Honor, it's called an incidental beneficiary just as a person who, incidentally, may profit by the performance of a contract, cannot enforce the contract. So a person cannot enforce a trust merely because he may, incidentally, benefit from the performance of the trust. The beneficiaries of a trust include only those persons upon whom the maker intended to confer a beneficial interest. Your Honor, doctrinally speaking, there is not one church member that intended to convey a beneficial interest in the public. That would create a couple of wrongs, your Honor, doctrinally speaking. I am saying that their only obligation, Biblically speaking, is to preach the doctrine to the word so it won't be contradictory to the doctrinal belief.

The Court: You have been at this now almost an hour, and so I am going to ask you, if you would, please, to sum up your position on these two particular motions.

Mr. Helge: All right, your Honor. The summation of these two factors, your Honor, is that the church is not a charitable trust and that the public is not the beneficiary of churches, and, your Honor, this must be so, and the Attorney General must cite law to prove it in order to have jurisdiction and standing. Their jurisdiction cannot be just assumed. If the court, if I could refer the court to my memorandum in the Wheelock case, a very recent case, The

Presbytery of Riverside vs. the Community Church of Palm Springs, 89 Cal. App. 3d 910. It's a 1979 case, your Honor, that brings Wheelock right down to date. It [31] says in no place, your Honor, that the public is a beneficiary but they openly talk about whether or not it's the general church or the Congregational Church, etc. Your Honor, I know you heard arguments on 9505. I won't go into that. Insofar as the common law is concerned, there's a specific provision that says there is no common law of England. It's repugnant to the Constitution of America. It's very clear, your Honor. It's absolutely repugnant the position that they are trying to take. I feel that their enforcement . . . it's a little different point when it gets down to the taking of my deposition. That, your Honor, has to do with their concept that trustees of the church or directors, which I am not, your Honor, in spite of their allegations, has a duty to account to the public and to the court. Now, your Honor, they make that statement. Your Honor, if you have accountings in this court from the Catholic Church and the Mormon Church and the Seventh Day Adventist Church, the Lutheran Church, then, I will be close to conceding that point in recommending to the client that they account but if you do not, your Honor, then, I say that Article I, Section 4 of the State Constitution provides that there shall be free exercise and enjoyment of religion with discrimination or preference, without discrimination or preference, and, your Honor, the Attorney General has never gone in to make these other churches account to the public or to this court, and I say, as a consequence, it's an improper enforcement of the law, absolutely discrimatory, and that, as a consequence, your [32] Honor, it's a

nullity their particular thrust. I won't dwell, your Honor, upon the rights here. The fact is that this does not leave us up in the air where people can pilfer from churches. If you will look on page eleven of my memorandum, you will find all of the different means of preventing wrong doing, and the Attorney General, your Honor, would have you believe and tell you, your Honor, that they are the only ones other than the trustees that can come in. They told another court just the opposite that no one can come in. Now, they are willing to make a concession under the Holt case that the other trustees could come in. The Boy Scout case, if I may quote in a minute, which says, your Honor, that the Council of Boy Scots, and in my mind that's akin to the Church of God, could come in to the World Wide Church of God if there were wrong doing, and bring any particular action that had to be brought. Your Honor, that's 14 Cal.App.3 189. The Board of Directors could do it, and, your Honor, there are twenty-nine directors of these three corporations, twenty-nine of them, your Honor, in spite of the fact that they keep saying that there are no Board of Directors. There are and I meet and talk to them, your Honor. Sometimes some of them every day. So the long and short of that, your Honor, is that there are means to enforce wrong doings, and those means do not vest with the Attorney General. Insofar as my deposition is concerned, your Honor, I feel that the complaint is vague and it is over broad. There's no possible way that I could know whether or not questions are actually relevant. It's too [33] vague to defend, your Honor, and, unless they tighten it up and show me where the wrong is, your Honor . . . that is supposed to have been done, and I am being

deprived of a defense in due process of law, and my privacy is being invaded, your Honor. They are coming in and asking, your Honor, for my private personal checks for about twelve to fourteen years back. If I can make one comment . . . you know, when I was a kid in law school and they talked about indictments, they talked about specificity in indictments. That's ridiculous. He knows what bank he robbed. I tell you what I learned in this case and that is the guilty man knows what bank he robbed but the innocent one doesn't know what wrong he has done. If I have done a wrong, then, your Honor, hasn't simply put it forth so that I can defend it. If I have pilfered millions, how in the world did I do it? When did I do it? Give me some general dates of when and where and how. This complaint, your Honor, is criminal in substance. It's very clear. On page forty-six of my memorandum, your Honor, I point out that there are six crimes charged here, your Honor; six of them. I was there when they gave the Miranda warnings. I was here, your Honor, when they tell me, "Well, perhaps, you haven't done anything wrong but you can be kind of a co-conspirator in this thing." But nobody has done any wrong, your Honor. Your Honor, I would like to quote here also from the declaration of Mr. Brainard. He says on this Miranda warning that was given that it was given . . . this was filed May 2, 1979 . . . this was given in an excess of caution, in an excess of [34] caution. What caution, your Honor? What does that mean? You know what that means, your Honor, that they wanted to be very cautious that they could use every word that came from our mouth in a criminal prosecution. What else could excess caution mean? That's why they gave it. They had a specific

intent to try to use everything they could in a criminal case, but they are going to come up empty handed, your Honor. As I have already quoted, there's a substantial certainty. They also, your Honor, have documents and this is in closing, your Honor, that were stolen. I send a demand to a newspaper to return documents that they also have of internal church documents that were stolen from the church, not distributed. I was advised by the attorney for the newspaper that people are coming around and selling them internal church documents that were stolen; offering them for sale. I don't know where the Attorney General got his but I want to know that before I go down and testify, for in my mind, your Honor, any questions leading from those stolen documents are subject to being suppressed. These documents are not incriminatory. They are exculpable. I have a right to have them suppressed and not answer any questions regarding them. The last two points . . . the cases that I quoted of Dunway and Brown say that before you can pick a man up, before you can interrogate him, before, your Honor, you can[?] ask him his name. There's got to be probable cause for arrest. This complaint, your Honor, has six crimes. I contend that there is absolutely no probably cause for filing it. The probable cause was attorney fees, your Honor, [35] and that's all and until, your Honor, they can show me probable cause, I feel that I have a right not to testify; that I have a right to remain silent. Please, let's not confuse the Miranda case. The Miranda case never created the right to remain silent. All that did was to take an ancient right that existed, you know, long before the Constitution, your Honor, and was put into the Constitution the right to re-

main silent any time the state came up and said, "Hey, we have a crime here." Directly or indirectly in a crime, there's a right to say I am not going to speak, and there is case law that has been quoted, your Honor, to the effect that even though it's a civil case, if they say criminal elements are lurking in the background, a person doesn't have to testify. Here's the last point, your Honor. You know, they contend that you don't have a right to remain silent, Helge. You can always plead the Fifth. I don't want to plead the Fifth because that does carry a connotation with the public of guilt regardless of what we try to teach, and, otherwise, and, your Honor, I am guilty of nothing, and I am not going to enhance any presumption in the eyes of the public. . . .

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Mr. Browne: Thank you, your Honor. In order to discuss the provisions of the protective order, particularly, that which the court has already granted, I would like to back up and indicate for the court that, in effect, there has been a stay on discovery on these particular items we are talking about that go back to April. There are three items that are really subject to the stay at the present time. There's a set of interrogatories, your Honor, in which we are asking for facts and documents in support of the allegations of the complaint. That's the first thing. There's a second set of interrogatories which we served and which are contending interrogatories. They can simply be answered yes or no and there are about sixty interrogatories in that category, and they really ask for legal contentions, which under the Burke case, I am sure the court knows

that we are entitled to ask, and the last thing involved is a request for production of documents which the court stated. Now, the court will recall that in about April of this year, more than four months ago, we sent out a set of requests for admissions and interrogatories that were combined together, and, perhaps, the court will recall that they were objected to on the grounds that the case was not at issue, and requests for admissions were not appropriate at this time, and, since the interrogatories were linked to the requests for admissions, the court said that they [51] didn't have to answer those either. At that time I asked the court, "Well, if we were to send out an interrogatory, would that obviate the problem?" And the court indicated, not wanting to give an advisory opinion, that you would have to look at them specifically, but that yes, we could send out a set of interrogatories. So, then, we revised a set of interrogatories and sent them out shortly after April. They were extant for a period of time. They were objected to. So we then, brought on a motion in May to have them answer the interrogatories and at that point there were proceedings, and, then, eventually the stay was given to them so that the interrogatories were not required to be answered. The point is that we have been trying to get answers to interrogatories really since the beginning of April. The same is true with regard to the production of documents. We brought on a motion for production of documents. The motion was denied in part because they were too broad. We, then, came on for a motion for reconsideration. The court reconsidered and, now, we would like for them to produce in large part the documents that are listed in connection with the eight hundred nineteen

documents which we now know that they have in their possession, and this request for production of documents is particularly important to us, your Honor, because, as I indicated yesterday, many of the documents which the Attorney General claims it has, and we do not have, and we can't find copies of them. So we need those and the contentious interrogatories, as I have suggested, have been outstanding for about six or [52] seven weeks now. They were almost due at the time the stay was granted, and the stay has been in effect for a month. So this is discovery that we have been frustrated about that really goes back to April. Now, the only reason that I can assume that the court granted the stay was because of Mr. Rader's refusal to appear for his deposition because they came up at the same time, and the court said, "Well, I will stay discovery until we decide that we are going to do with Mr. Rader on August 1st." They were consolidated at that time. There was no and, of course, that's part of their motion for protective order in connection with the action for contempt and other sanctions. The point, your Honor, is that I do not believe that it would be fair or just to delay our discovery and penalize us, and I say us in the sense that I am representing more than Mr. Rader. There are other defendants as well. Why should Henry Cornwall or Ralph Helge or any other person or entity be refused discovery because Mr. Rader is not appearing for his deposition, and, number two, is not doing so not in the sense that he is being willful and acting in bad faith. He is simply pursuing his appellate remedies here. We haven't dragged our feet. We have moved expeditiously to the Court of Appeal, the Supreme Court and, now, the United States Supreme Court,

and, I think, what the Attorney General is suggesting as long as we are pursuing our appellate remedies, that's good cause and reason enough to keep us from finishing up discovery in other areas. I don't think that shows good cause. Secondly, the Attorney General is moving [53] ahead very quickly in other areas. We are here on a motion today because they want answers to interrogatories, and they are not being stifled in any other respect, and they are moving ahead noticing Mr. Armstrong's deposition, requesting answers to interrogatories, request for production of documents. We, in effect, lost, as a result of this stay, more than a month of priority which we had and, now, they are moving ahead in other areas with other forms of discovery. So I would submit, your Honor, that there's no reason to stay the answers to these interrogatories or their request for production any further.

The Court: Mr. Browne, I have a high degree of respect for you as a person and for your abilities as a lawyer, and it takes a firm belief on your part, which, I believe, you have in the justice of your cause for you to really press the court to continually allow defendants discovery here, and as you are well aware, although there has been no indication to mention it this morning, the court has not stayed or precluded your taking of a number of depositions. How successful the depositions may have been, I have no idea but you have been able to take depositions of plaintiffs and other witnesses. I don't know whether you have been able to take the deposition of the plaintiff, but you have been able to take the depositions of a number of people that you sought to depose, but, as far as I know, not only has Mr. Rader failed to make any discovery here, but I am unaware

of any discovery that's been, that's been afforded by any defendant in this case, and, honestly, on [54] the basis of the representations made by counsel in this matter, counsel for defendants, I have no impression that any party defendant has any intention of complying with any order of the court to make discovery, and to say, and I can understand that defendants feel that they are within their rights in taking that position, but to say that when the defendants are making no discovery, then, it is not fair to inhibit the defendants making discovery of the plaintiff's position is incongruous.

Mr. Browne: Your Honor, the point is this. We are put in a very difficult dilemna because what, I think, the court is suggesting is that if we waived what we consider our Constitutional rights, you would allow discovery to proceed but if we object on the basis of a right or a privilege that we feel that we have, and we, then, take that to a court of higher resort, that somehow we ought not to be able to continue with our discovery in the interim. The Attorney General is bringing on motions to compel, and I am sure that these motions to compel will eventually find their way up to a higher court as well. That is a way of pressing forward their claims.

The Court: Mr. Browne, we are here on a case that started the first of the year. We are in the ninth volume of pleading. The pleading, I am sure, although I have not measured them but, having in mind the average size of a volume in the courtroom, we have to be talking about four feet plus of pleading so far, and we are not yet at issue. I have no, I have an impression but I have no information [55] as to how many thousands of good lawyer man hours

have already been devoted to this case. I have no conception but I have an impression that we must be talking about hundreds of thousands of dollars that have been expended in lawyers' time in the prosecution and defense of this case. I have no idea as to how this case is going to be determined. I have no belief that somebody has done something wrong here. As I have said many times to you and to other counsel in this case, to me this is not a First Amendment situation. This is a case that involves, basically, an accounting. Other things are mentioned but, basically, we are talking about money. We are talking about the stewardship of certain officers and leaders of the church. We are talking about their responsibilities as custodians of the finances of the church, and I really have another impression. I can't say that it is a belief but I have an impression that had this First Amendment not been so vehemently pursued by you, although I don't for an instant question the good faith of the defendants or of their counsel that have advanced these positions, and it has caused me great trauma, as I think you are aware, but had this First Amendment position not been so tenaciously adhered to, had discovery been made months ago, it may well be that this case would have been over long since. If there is no substance to the case, we are in one position. If there is substance, it's a matter that is going to have to be litigated over a greater length of time. I am not saying that you cannot do what you feel like you have a right to do as far as taking a [56] position and supporting it, but I do feel that this is costing a lot of the court's time of the substance of the People of the State of California as reflected by expenses to the Attorney General's Office, and certainly by the church and/or whoever

else is bearing the burden of the very resourceful and tenacious and thorough presentation that is being afforded the defense in this matter, but I have read your documents in detail and it's a matter of great concern to me. I read the material that Mr. Horvitz left with me yesterday in the briefs and replies in the requests for petition for certiorari. I woke up at three o'clock this morning and I laid awake for an hour and, finally, got up and walked around my house because, I think, that these problems are so difficult but I do divide this in my mind in sections, and one section has to do with the operation of the church. It has to do with church doctrine. If the doctrine of the Worldwide Church of God is consistent with Mr. Helge's representations that people are to live well and that they are to live as well, and the church is to be presented in as beautiful and wonderful a fashion to the rest of the world as an example of how God fearing and God believing people should live, fine. I see no problem in that as a doctrine of a religious organization. That does not mean that people can't be asked questions about money which are to this court a very different matter. So, and I have given thought previously to the Miranda rights problem, to the Fifth Amendment problem as it is reflected in Mr. Rader's problems, and I appreciate Mr. Horvitz and your mentioning on numerous [57] occasions that the alternatives that Mr. Rader has available to him are not necessarily appetizing alternatives, but, I think, that these are the alternatives that he really is going to have to face. I think that discovery is going to have to be made by the Church, and I cannot see that this is an infringement of any religious right or principle because I am not trying, when I say this, I am

not trying to pre-judge which questions that may be put to Mr. Rader or anybody else who is deposed by the plaintiffs might or might not be objectionable. We are going to get in a few minutes to the motion of the plaintiff for an order compelling further answers to interrogatories. The interrogatories are to Ambassador College Cultural Foundation, Ambassador College and Worldwide Church of God. I think there are thirty questions. As I am sure that you are aware, no question was answered. The objections were propounded, basically, on Constitutional grounds to all of these questions. It does seem to me that these are questions that are appropriate and can and should be answered but, once again, I see no indication on the part of any defendant, any defendant entity to supply any information or afford any discovery.

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The Court:

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• • • If it is necessary to depose Mr. Rader for a period of time longer than that day and a half, it's a matter that either you all have to be able to agree to a time to which that could be continued or you will have to come back and we will discuss it further. The stay on any discovery by the defendants continues in effect until September 21st at which time the court will reconsider that matter. This particular stay extends to any discovery, any other, any pending depositions if there are still any still pending are stayed. The plaintiffs are not required to respond to interrogatories or contentious interrogatories or request for production of documents or any other effort in the way of

Appendix Z—Excerpts From Hearing on Motion for Judgment on the Pleadings and on Stay of Defendants' Discovery

discovery by the defendants until that date, and the matters will be taken up then. I take no position regarding the holding of Mr. Rader in contempt at this time, and I make no contentious order based on his failing to appear and participate, if that is the course of action he decides to pursue, and I most sincerely hopes that he decides to make himself available and to afford some discovery. As to other matters which were considered yesterday and submitted, the motion of Mr. Cornwall, the various motions of Mr. Cornwall and Mr. Helge are denied. The court has taken judicial notice as requested by the defendants in connection with their motion for judgment on the pleading, the motion of judgment on the pleading is denied at this time. As I mentioned earlier, the court has read [63] and considered the plaintiff's motion for an order compelling further responses and the court has considered the objections stated by the defendants and I really am not looking for anything further from you this morning, Mr. Browne on this, unless there is something you wish to say, in addition to what you have offered, with respect to those objections, and I do feel that these are interrogatories that should be answered, and the three named defendants are ordered to answer those interrogatories within thirty days after service of notice of the order. Since there are a number of parties, I beileve, that plaintiff should give notice of all of these rulings. I don't make these rulings lightly. They are reflections of my beliefs and understandings of the issues of the case, and it has been a troubling time for me.

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Excerpts From Hearing on Discovery of Documents From Church

REPORTER'S TRANSCRIPT
August 29, 1979

[13] • • •

Mr. Browne:

• • • Your Honor, we have been saying from the very beginning that the right to control the purse strings of the church is the right to dominate that church, and this court says it for the first time loud and clear. It is impossible to separate the way in which a church spends its money and the practice of that religious doctrine, particularly, in light of what has been said in this case.

The Court: Let me ask you whether the fact that we have not only the Worldwide Church as a defendant here but various other entities, allied entities, and various named defendants here, does that change the situation with respect to the discovery that could be required of the church?

Mr. Browne: Not at all, your Honor. First of all, the other entities apart from the church itself, for the most part are entities that are closely and intimately bound up in the church's religious mission. The Ambassador College exists and subssists for the benefit of the church for the purpose primarily of educating students and preparing them for the ministry. The Ambassador International Cultural Foundation is an entity which has its primary exhibits in cultural matters in the House of God, which is where the people themselves pray, and the Foundation has been used as a vehicle to help propagate the ideas and bring the messages to various people around the world. The various [14] religious educational projects and sub sistence programs and health programs have all been set forth through the Cultural Foundation. If there are in-

dividual defendants that have been called to task, and I want to point out that this is the position that has been taken by the Attorney General in a letter to the State Supreme Court. They have previously taken the position that this action is primarily designated against individuals, not the church, but the problem with that approach, your Honor, is that the thrust of this action, and this court has said it many times, is for an accounting from the church. That's the problem with the way this action is framed. It doesn't seek an accounting primarily from an individual. It's from the church and the motions to take, the production of documents, your Honor, are production of documents by the church and by the Foundation and by the Ambassador College. Those are the three motions before this court, and that's why they fit so perfectly within the Surinach philosophy. Mr. Helge points out, which is true, the Surinach case was directed not only against the church but against the schools of that church, and so that is directly in point with any involvement which the Attorney General in this case may take against Ambassador College. Now, a lot has been said in this case about the fact that all the church has to do is produce the documents, and, if they produce the documents, it's all over. You must be hiding something. And I have given a lot of thought to that, your Honor, because it's a very difficult argument to get around psychologically. Your Honor pointed that out the last time. "Gentlemen, this [15] case could have been over if you just produced it." And there's been a tendency on the part of some people to feel that if you don't disclosure your documents, you must be hiding something terribly bad that you don't want to disclose, and I thought about the analogy of somebody coming to my door or your Honor's door, a

policeman saying, "I want to search everything within your house." And you asked if he has a search warrant and he says no, and you say, "Well, you have to have a search warrant." And he says, "If you have nothing in your house, what difference does it make? Let me look at it." "No, I want a search warrant. That's my Constitutional right." A person could end up losing the right under the Fifth Amendment if everytime he was confronted with a problem,, the other fellow said, "It's obvious. You are guilty. You have got something in there and you are hiding it." That's really what has gone on here. This church does not want to relinquish its rights and the court deals with this in the Surinach case. The court says, specifically, that the effect of the production of documents would be to lose that right, and the court goes on to say that "The subpoenas which generated this controversy sought extremely detailed information about the expenditure of funds of these Catholic schools. If the schools are forced to comply, that information will be subjected to governmental perusal, to public examination, and ultimately may form the basis for significant governmental involvement in their fiscal management. Even if we were able to countenance the degree of entanglement occasioned by the government's involvement in [16] these details of fiscal administration, we could not feel confident that an end to that involvement was in sight." Then the court goes on to the next point which I want to mention, one of the main vices of this whole procedure of gathering information is that it will require a continuing involvement of the government into the fiscal aspects of the church. It's not over. Once they look at the documents, they have a right to continue to monitor what is going on, and that's what the

Attorney General will do in this case. Next year, they will want another audit and they will want to know how much the ministers are being paid now and whether they are in line with their travel expenditures, and whether Mr. Armstrong has given Steuben crystal to the head of one of the governments or some golf balls to King Leopold. It's a continuing monitoring and the court deals with it here. It says, "The Commonwealth would have the ongoing powers necessary to ensure compliance with its orders and regulations, from compelling the keeping of records and the providing of testimony to the continuing inspection of papers and physical facilities. This governmental program thus has the 'self-perpetuating and self-expanding propensities' which have alerted courts to an increased danger of an unconstitutional degree of entanglement." That's the problem here. The Attorney General will have the right to continue to monitor not only the Worldwide Church of God but every other religious organization as long as he wants in perpetuity. You have, basically, a receiver in place perpetually in a religious organization. Now, the sixth point I want to mention, [17] your Honor, which, I think, is so important here, and, I think, it's been lost sight of is that because we, and I mean my clients, have refused on my advice to produce documents because I felt that it would destroy the very right that they were seeking to protect. The burden of persuasion has been in my view implicity or inferentially shifted to us, and, I think, that there is this idea that, "Well, if you won't produce, there maybe something wrong. You are going to have to demonstrate to me that your church is clean." The court here dealt with that issue as to who has the burden. The court says, "Given our conclusion

that the Secretary's demands for the financial data of these schools both burden the free exercise of religion and pose a threat of entanglement between the affairs of church and state, the Commonwealth must show that 'some compelling state interest' justifies that burden, and that there exists no less restrictive or entangling alternative." Now, that is the test the court fashioned and the burden of the attorney, one, a compelling state interest and, two, there exists no less restrictive or entangling alternative. We don't have to show that. The Attorney General does. The court, then, defines what is a compelling state interest. This is the first leg of the test that they have to produce, and, I think, it's very significant as to what the courts in the past have considered to be a sufficient compelling interest to allow the government to intrude into the First Amendment. They cite a series of cases. The first set of cases deals with those situations where it was important to have people to act in [18] the military for the purpose of national security and those cases dealt with your conscientious objectors refusing to bear arms because of an unjust war. Clearly, something that goes to the heart of the ability of this country to defend itself. The second sets of cases dealth with protecting children from physical harm and exploitation. Certainly, we don't have that issue in this case. Particularly, there are some other cases that they cite dealing with the motivation of parents who withhold a blood transfusion based upon religious grounds where the child's life was at stake. And, lastly, they say, and this is very important. This is not a case in which the records of a religious organization are subpoenaed pursuant to a criminal investigation, a situation which the state's interest unquestionably is strong. So there are the

four situations that they have held compelling state interest in the past. Never one involving money, which is what this case is about here. Money never rises to the degree necessary to allow intrusion into the First Amendment. You are dealing with national security. You are dealing with children's lives and you are dealing with criminal cases where there has been criminal conduct. That's it. Now, number two, that's only part of their burden. Even if they could get by a compelling state interest which they can't because this is a money case, the second thing they have got to show is that there is no less intrusive way to handle it. I can't imagine a more intrusive way of getting into the First Amendment than doing what the Attorney General has requested this court to do [19] in this case, order an accounting, change the Board of Directors, allow Mr. Armstrong no free will in deciding who will serve him, appoint a receiver to take care of the church, fashioning injunctions which would prohibit the church from transferring property and giving every member of this church a right to vote even though they join it knowing that it is a hierarchal structure, and that's something that they don't even desire. They have gone about it in just the opposite direction; massive intrusion. Your Honor, it would be our contention that based upon the Surinach case and, supplementally, the court here says with regard to that burden that the department in the Surinach case has "The Department has failed to show that it has pursued its secular objectives in the manner which is least intrusive upon religious concerns. The Department has not satisfied that burden merely by noting that the investigation does not single out religious private schools. It is well established that state action, al-

though neutral on its face, can in practice occasion a substantial infringement on First Amendment freedoms." So the bottom line, your Honor, is that they have not demonstrated a compelling state interest as previously defined. They have not even tried to explore other less intrusive ways of getting their objective. I think, and we dealt with this in the past, if they were to proceed criminally, there are a whole line of cases that permit them to right wrongs that are occurring in religious organizations. But why haven't they gone that route? It's very easy for me to see. Because it [20] would give the defendants an advantage that they don't want to give those defendants. What are those advantages? Number one, the Attorney General would have to prove its case beyond a reasonable doubt. They don't have any evidence let alone prove beyond a reasonable doubt. Number two, the Fifth Amendment would apply much more forcefully in terms of production of documents, search and seizure, the right to require probably cause. Number three, the children would have the right and individuals, particularly, here to confront their accusers. We have played ring around the mulberry bush trying to find out where they have gotten their information and who is giving the information to them. We can't get that in this court. In a crimnal court we could. Number four, we would be able to strike in a criminal proceedings all of the evidence that they have obtained if it were not obtained through proper legal means, and we know and this court knows that the Attorney General has in his possession eight hundred nineteen documents which never came from this church. I don't know where they came from but they came at some point illegally in someone's possession. Everyone of those safe-

guards that would be available to the individual defendant in a criminal proceeding are unavailable so far in this courtroom. And so, your Honor, there is a remedy. The Surinach case requires it, and, I believe, that based upon this authority this court should follow it.

The Court: It's your position that the Surinach case is controlling in this matter?

[21] Mr. Browne: No, the First Circuit Court of Appeals would not be controlling. I recognize that but, I think, that this case is extremely well reasoned. It's one step below the United States Supreme Court, and it is the first case to deal with precisely the questions that have been raised in this court's mind from the beginning. There is not another case like it and there are three judges that decided this case unanimously, so I would say, your Honor, that while it is not controlling, I would think that is is very, very persuasive.

The Court: Thank you, Mr. Brainard.

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Excerpts From Further Hearing on Plaintiffs' Discovery and on Stay of Defendants' Discovery

REPORTER'S TRANSCRIPT

September 21, 1979

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[11] • • •

Mr. Browne: Your Honor, I can be very brief about the conversations that I had with Mr. Evans, and your Honor put your finger on it. I anticipated that there was going to be conflicting demands made upon Mr. Evans at his deposition, and I knew that he would be caught in the cross fire between the Attorney General saying produce these documents and our saying that these documents belong to the church; they should not be produced; and with him being in the position of not knowing what to do. So my advice to him was get a lawyer; have him appear with him or if the lawyer didn't have adequate opportunity to be there since it was the following day, call Mr. Brainard and ask for a continuance. Now, I think, that was entirely appropriate, and I will stand on the record insofar as that is concerned. I don't think that it need be argued. Certainly, I did not intimidate him or intend to intimidated him or threaten him in any way, and I would not do such a thing. Now, let's talk about a little [12] bit about the production of documents by Mr. Evans and the production of documents generally because this has a common thread through out the Rader and Cornwall requests to produce as well. Your Honor, the Worldwide Church of God has a two-fold commission and they are very simple. One, is to preach the gospel of the Kingdom of God in all the world as a witness to all nations, and the second thing is to develop righteous character in

those who have been called to the spiritual body of Christ. I think it's a matter of common knowledge and this court can take judicial notice of the fact that of the last couple of days there probably have been a thousand members of the Worldwide Church of God peacefully letting this court know in front of the courthouse and in this courtroom I am told, although I wasn't here yesterday that they are concerned, and I don't know ninety-nine per cent of the people out here. I see faces. I have only spoken to as many as I could talk to, and I have asked them, "Why are you here?" I certainly have not called them and they all tell me one thing, and they say, "This is our church." And they say that they know about the complaint and the allegations which are rather ugly on their face, but they know about them. They know that there are all kinds of accusations that their officers have been spending money and stealing it and pilfering it and siphoning it off, but they want the court to know—even though these allegations have been made—that they want the state to leave their church and their leaders alone. They want the court to know that these members who are of all ages . . . I have seen children [13] and students and people in their middle age and senior citizens, and, I think, you can take a look at them, and you can tell that they are sincere and they are law abiding, and they are intelligent, and they want the state to know, this court, that they approve of the commission of this church, and they want the court to further know that they approve of the way that the commission has been implemented by their leaders. They want this court to know that Mr. Armstrong has led this church and them and their chil-

dren and their parents for forty-six years, and they want him to continue leading this church, and they want this court to know that Mr. Armstrong has selected leaders to help him like Mr. Rader and others, and they approve of these selections, and they also want this court to know that their tithes which they worked for, the Attorney General doesn't work for these tithes, they do. They want this court to know that for the past forty-six years Mr. Armstrong has been directing as to how they are to be spent, and they want that direction to continue. They tell me that they don't need the state to tell their leaders how to serve God. They tell me that they don't want the state and this court in its ultimate wisdom to change around their structure and say that their members should have a right to vote. They tell me that Catholics don't vote on every single item of expense of a church, and they say that there is nothing anti-religious about the members not voting, and they say that they don't want a new Board of Directors, and they don't want a receiver telling them from the state how to spend their tithes. They tell me that they are not [14] wards of this court. They find it degrading to have the State Attorneys General, these young gentlemen here, stand up and say that these members are wards of the court, and it is their job to protect them. Your Honor, these people tell me that they are law abiding, and I believe it because I see them. They tell me that they are religious and I believe that, too, and I believe that they are sincere, and that they are intelligent and of sound mind. They also tell me, your Honor, that those who don't like the ugly allegations of the complaint or believe that they are true can leave the church. Many

have. Many have not and that those who wish to join another church may do so. They feel they tell me that they don't have to do at this time. They tell me that if they are desirous of not tithing, they can go somewhere else. It's a voluntary act. They are not under any contract or compulsion to do so and if the state says, "We think that your leaders have done such and such." and they still want to tithe, they still have that privilege. That's what they tell me. Now, your Honor, I don't think one must be a legal scholar to listen to this and realize something is terribly, terribly wrong. It is contrary to reason to tell these people who are bright and able to spend the money they want and who are not conservatees of this court, that they have no choice in this matter. It is wrong to tell them that they have no right voluntarily to give, and I say, your Honor, that the onslaught on this church and these members must be halted. Now, you can take all of these facts and wrap them up in any kind of a legal argument you want, and we have made all of [15] those legal arguments . . . I don't even think the legal arguments are important when you get down to this basic gut level. There is something wrong with the system if these three gentlemen feel in their ultimate wisdom that they can convince you or another judge that these religious people cannot spend their money by giving to their religious leaders, and allowing the religious leaders to use those monies for further religious purposes, even though the state Attorney General in his wisdom or your Honor may feel that that is foolish. They have that privilege and I cannot argue with these members when they say that. That's why they are here. Now, we have

cited other cases to the court in the past and I am not going to go over those cases but let it be sufficient to say that Rhode Island and New Hampshire and Maine and Massachusetts all look at this situation and say that this court is wrong. That's the Surinach case. We cited the International Society of Krishna Consciousness, and that's Illinois, Wisconsin and Indiana and they say that this court is wrong, and, your Honor, I found two additional cases, which I want to give to the court. They are not in our brief, and I would like the court to have these. The cite on this and there are two cases . . . we now have North Carolina and Texas saying that this court is wrong, and the first case is the Heritage Village Church vs. the State of North Carolina. Their Attorney General, who fell to defeat, his name is Rufus L. Edmisten, not Deukmejian but Edmisten, and I would like to lodge this case.

Mr. Brainard: May we request—

[16] Mr. Browne: Let me give you the cite. The cite is 40 N.C.App, 429 and it was decided in 1979, in April of this year. It's a lengthy case and I am just going to take a few minutes to summarize, and the court after the hearing today can take a look at it, but this case has four major points which tell me and I think will tell this court that it is out of step when it tells these people that they can't conduct their religion the way they wish. Number one, the facts arose very simply in this North Carolina case. There was a regulation issued by the Secretary of the Department of Human Resources which said that the Secretary could revoke and suspend the license of any religious organization to solicit funds if they found that a reasonable percentage of the contributions were not being applied to

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a religious purpose. So, for example, if they were using the funds in what the Attorney General considered in a non-religious way, he had a right to say, "You can't solicit from the members of the public because it would be a fraud." Now, the importance of this case, and I think the analogy is so obvious . . . it almost needn't be stated but, obviously, that's what the Attorney General in our case is doing. They are saying, "These are non-religious expenditures of funds. You can't travel and do the things that you are doing even though they are part of your commission." We don't interpret their commission that way, and the court says in this North Carolina case, and I am quoting on page four forty-two, the Section "Allous the Secretary to withhold his approval of a license if he determines the purpose for which the money is expended is [17] not a religious one. This exercise of discretion constitutes a prior restraint on the exercise of religion and violates the First and Fourteenth Amendments of the United States Constitution and Sections 13 and 19 of Article I of our State Constitution." And what do they cite, your Honor? A case we cited many times . . . the Cantwell case and also the Society for Krishna Consciousness, which is the Seventh Circuit case covering Illinois, Indiana and Wisconsin, and, then, they go on to say that, "Defendants' contention that the Secretary's discretion is subject to judicial correction in an administrative hearing does not remedy the evil." So that is the first of the four points I want to make. The Attorney General does not have the right to decide what is or is not religious. That's a fundamental invasion of the First Amendment. The next thing that the North Carolina court agrees with and the other

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ten states that I have talked about is the very simple concept that we have mentioned before. If I didn't mention it, the prior quote was on four forty-two. The next is four forty-nine and it says, "The Solicitation of Charitable Funds Act . . ." that's the act on test in North Carolina, "seeks to protect the public from fraudulent practices in solicitation. Less intrusive means are available." That's a point that we have been making all along that the state Attorney General from California cannot take this massive approach of restructuring a church to remedy an evil that it claims exists. Number three, and this is, perhaps, the most critical. I commend the North Carolina court for making a distinction that I have been trying [18] to make for a long time and that is that this is not a Boy Scouts of America case. This is not a muscular dystrophy case. This involves freedom of religion. Those other non-profit corporations do not have the First Amendment protection. And listen to what the court says about that. It analyzes the case, and, then, it goes on to comment and it says, "In National Foundation, supra, . . ." that's the case it just analyzed . . . "the plaintiff was a nonprofit organization. In the case before us, plaintiffs are religious organizations." The words religious organizations are italicized. "We believe that this is a distinction worth noting. An activity when engaged in may be secular or religious depending on the circumstances. This distinction is oftentimes vital for constitutional purposes." And that's the point that we have been making. If the Attorney General feels that there is wrong doing in the Boy Scouts of America, he has far greater lattitude than he does if he thinks there is wrong doing in a religious

corporation which is what we are dealing with here. And the last point I want to make about this North Carolina case is that putting any limit on spending, which is what these members are here about today hampers First Amendment rights, and that's what the Attorney General wishes to do. Limit the spending. Listen to this quote. This is on page four fifty-one. Incidentally, the previous quote was at page four fifty, the distinction between a non-profit and a religious organization. At four fifty-one the court says, "As in Buckley, supra, plaintiffs are exercising rights protected by the First Amendment. Limiting the amounts [19] of money expendable seriously hampers plaintiffs' ability to effectively exercise their First Amendment freedoms. The limitations are unduly burdensome and thus violative of the First Amendment. See Cantwell . . ." our old friend "supra." Now, then this case is, then, added to the other cases that we have cited before, and I wish to also enlighten the court with the Texas case that I promised that has the very same principle at stake. This is a United States District Court case in Texas and it is cited at 465 F.Supp. 493 (1979), decided in 1979, January 30th. I think it's impressive to me, your Honor, that for a period of one or two decades the First Amendment, basically, stayed much the same in terms of the judicial interpretations. Most of the cases we rely upon are in the late sixties and early seventies, and, then, there was a period of time when the public and the courts were digesting these cases, and I just, as a note and not an argument, think it is interesting that there are a flock of new cases coming down in 1979 throughout the whole country in this area, and from the United States Supreme Court, and it

is obvious that there are a great number of people that are upset by this broad state intrusive action. This case that is from Texas is Fernandes, F-e-r-n-a-n-d-e-s vs. Limmer, L-i-m-m-e-r, and I would like to lodge a copy of this case with the court. Now with that background and upon which, I think, the motions for production of documents on the part of Mr. Evans, on the part of Mr. Rader and Mr. Cornwall should be denied in their entirety, and that argument that I have just made goes across the boards. I [20] would like to move on, specifically, to some of the objectionable items apart from the constitutional points that, I think, are wrong and offensive. In the production of documents for Mr. Rader and Mr. Cornwall, one of the things that they asked for were W2 income tax forms, and I am literally horrified that the State Attorney General has become so enboldened by this case that they would make that request in light of a California Supreme Court case entitled Brown vs. Superior Court where that court held clearly and unequivocably . . . we cited in our brief . . . that income tax returns and all documents appended to those returns, including W2 forms, are absolutely privilegd. The arroganze of raw power requesting a document like that, I find in light of this case and a long line of precedents quite shocking. They have also asked for books and records of the law firm of Rader, Helge and Gerson and its clients' list. If those clients' lists and books and records were given up, your Honor, there would be a complete breach on the part of these attorneys to protect themselves. It's not any secret that the Attorney General invaded the law offices of Kaplan, Livingston, Goodwin, Berkowitz and Selvin, and a restraining

order was issued against them from doing so by Judge Pacht, and, I think, this attempt to get books and records and clients' lists of a law firm is absolutely reprehensible. They are also seeking the books and records and client lists of the accounting firm of Rader, Cornwall, Kessler and Palazzo. Another wrong intrusive method of seeking discovery. I have the feeling, your Honor, that the Attorney General thinks it [21] can walk into this courtroom and ask for anything at this point. Now, there's another reason why none of these documents should be produced at all, and this is the case that is not in the brief. I came across it last night, and it is the case of Salwasser, and I will give the court a copy of this opinion, S-a-l-w-a-s-s-e-r Manufacturing Co. vs. Municipal Court for the Fresno Judicial District, and at 94 Cal App 3d 223, and it was decided June 18, 1979. Your Honor, the Salwasser case is a point that hasn't been raised to date, specifically, and which, I think, is absolutely controlling in this matter. In Salwasser there was a warrant issued by OSHA, California Occupational Safety and Health Act. I am sure your Honor is familiar with it and it was a warrant permitting the inspection of a place of business on a routine safety check to determine whether the business was in compliance with OSHA's standards for workmen's safety. The warrant was issued without a showing of probable cause, and there was a belief and nothing more that, perhaps, there was a safety violation which existed on the premises. The court points out in this case that a violation of the OSHA Act could result in a misdemeanor, not a felony, but simply a misdemeanor, and there might be criminal sanctions involved in the event that they did

inspect the premises, and the premises were found to be wanting in compliance to the Act, and so the court decided that under the Fourth Amendment the requirement for search and seizure, that a mandate of probable cause had to be first proven before they could inspect the premises of this business, and the court states that in [22] "In short . . ." and I am quoting from the case, "In short, once it is recognized that investigators making a Cal/OSHA inspection are seeking evidence of serious violations punishable as misdemeanors, the constitutional consequences follow, as night follows days." And the constitutional consequences that the court was referring to was that any such warrant required a showing of probable cause. Let's examine that case in terms of the application to the case at bar. In the case at bar the entire complaint is virtually based upon information and belief. There is certainly no showing of probable cause. All of the allegations are general. We deal with pilfering, siphoning, stealing, sales below market values and most of those allegations have been disproven and rejected by Judge Title, including sales below fair market value, destruction of documents, sale of Big Sandy campus for less dollars than it is worth, and yet all of these allegations involve six potential felonies which are part and parcel of that complaint. This court knows the Attorney General has possession and has had possession for a long period of time of some eight hundred nineteen documents of the church going from financial statements to tax returns, to accountant's work papers, tracing every dollar in and out for some twenty years, and in the name of protecting the church the Attorney General through its receiver has spent

one hundred fifty thousand dollars of these church members' funds and asks for approval of two hundred fifty thousand dollars during the term of the receivership which lasted six short weeks, and they have thirty thousand dollars they want for Paet, [23] Marwick and Mitchell. All to protect the church. It reminds me of the story where the surgery is successful and the patient dies, and yet there is still no showing of probable cause to get any of these documents. The point here, your Honor, is that, I think, the Salwasser case is absolutely controlling; that it requires the Attorney General to show probable cause for the production of any of these documents whether they be in the possession of Mr. Rader, Mr. Cornwall or Mr. Evans, and that there has been absolutely no attempt to make any such showing, and I would like to lodge this case with the court for its examination. Now, let me move on to another ground, which, I believe, is controlling in this situation. The Attorney General takes the position inconsistently on the one hand that 9505 gives it the power to examine a non-profitable charitable corporation but, on the other hand, in its request for production of documents asks for documents of Worldwide Advertising. That's not a non-profit corporation. Never has been. Gateway Publishing, that's not a non-profit corporation. Excelsior Services and Mid-Atlantic Leasing, all of these entities are not non-profit. So if the Attorney General is going to say that they have the right to examine the affairs of a non-profit corporation with which we disagree with in terms of a religious corporation, but assuming, arguendo, they are correct, what business or right do they have to get into the boxes and records under that section of private cor-

porations? This is clearly an invasion of the right of privacy under our California Constitution, Article I, Section 1, and under Wright vs. Davis, "governmental [24] snooping" which that section's constitutional provision was enacted to prohibit, and that's the word, those are the words of Wright vs. Davis "governmental snooping". Referring to Mr. Evans' documents, the documents in his possession, I simply point out to the court that he was an employee from 1956 to 1958, and under Labor Code Section 2860 which I have written about and lectured about to lawyers up and down the state, that section provides very simply that all materials, all labors, all products of an employee, except his compensation, during the period of time that he is working for an employer, belong to an employer and the cases are legend that that section means what it says, and the point is what the ATtorney General is trying to get at are documents that he acquired during his tenure as an employee that belong to the church.

The Court: Wasn't he a real estate broker?

Mr. Browne: Yes, he was also an employee during that period, your Honor. I don't believe that an employee can take documents and say that . . . while he is acting for the church, mind you . . . in other words, they are not asking for documents that had to do with independent transactions which were part, which were not part of the church's operations of business. They are asking for church documents in his possession. Now, if they were to ask for broker's statements and documents which he obtained between L. C. White and Joseph Black, which had nothing to do with the church, I suppose, there would be a different issue but they are asking for our documents,

and I say that under Labor Code [25] 2860 they must be returned to the church, and that point the issue can be joined as to whether the state is entitled to them. It's a violation of the due process clause of our state and federal constitution if those documents are permitted to be taken by the state without first returning them to the church and giving the church an opportunity to be heard. Lastly, I want to address myself just for a minute or two on the issue of the stay of discovery which is to be lifted today we hope. It's very clear to me, your Honor, that the stay and ban of our discovery was for one purpose and one purpose alone, and that was to punish all of the defendants because Mr. Rader did not appear for his deposition, because he was pursuing an appellate remedy calling this court's order into question. I realize that this court has the responsibility in carrying out its orders but I also believe that if the court is so jealous of its jurisdiction that it creates a penalty for the other people that I represent because one of them goes up on appeal questioning this court's order—

The Court: Let's don't spent a lot of time on this because you really will run on the ragged edge if you do. You have spent weeks and months maintaining a position, and I know that you do it in good faith or, at least, I believe it, and that's close to knowing it, and you have put in the way of the plaintiff every road block you can envision, . . .

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Mr. Brainard: All right, I previously referred to the fact that the defendants, and we are not just talking about

Mr. Rader's refusal to make discovery, we are talking about all the defendants' refusal to make discovery. We are talking about the complete disregard of this court's [31] orders and the motions or the orders that I referred to earlier, the ones compelling production of documents, the one compelling answers of interrogatories, the orders of Mr. Helge and Mr. Rader and Mr. Cornwall's depositions were not directed at Mr. Rader. In fact, it is just evidence of a concerted and combined effort to avoid discovery. I believe that it would be appropriate to continue the protective order, staying the depositions of the defendants until Mr. Rader's deposition is completed. We are in a very difficult position or posture in this case, your Honor. We request discovery. The defendant objects. We make a motion to compel. The court orders them to comply with the discovery orders and the defendants simply say, "No, we are seeking a writ." And they seek a writ and the days pass and we are back in court again. I am not sure the court wants us to come back here every twenty or thirty days asking for new dates.

The Court: It's a little awkward every twenty or thirty days.

Mr. Brainard: Unfortunately. Right now we have, not including Mr. Rader's deposition, I believe we have four matters which have not been complied with, four orders of this court which have not been complied with by the defendants, and the dates of compliance have already passed or just passed in the last week or so or will pass. One is next Tuesday and it already has been indicated to us that compliance will not be had. I want to, perhaps, as the court's indulgence by asking for some instructions on

how your Honor wants us to proceed with those matters. I hate to [32] keep coming back to the court and asking for new dates when we know that they are not going to comply with in any event. At the same time we have a situation where without a set date there is no compulsion by the defendants to even go forward with their appeals on this matter.

The Court: I haven't really been of the opinion that the defendants were being dilatory in prosecuting their appeals. I think they are going forward fairly rapidly. I am going to continue the stay on any discovery by the defendants to a date certain just as a matter of convenience, and this time I will try to remember it, and I am sure you will remind me. I wouldn't propose to put it necessarily until Mr. Rader's deposition is completed because, first, I don't know how long it will take to depose him. We have had conversations about this in the past, and it may well be that some of the information will be elicited from Mr. Rader at the earliest part of his deposition so that some discovery will have been had, and it would be fair and proper to resume discovery proceedings. It may very well be that some higher court will straighten us all out on this in the meantime, but the stay is continued to November 26th.

Mr. Browne: Perhaps, we will have something to be thankful for on that day besides our turkey.

The Court: Well, that might be.

Mr. Helge: Your Honor, may I ask clarification of that? You used the word defendant.

The Court: Defendants.

Mr. Helge: That's what I mean.

[33] The Court: I am just not enunciating very well.

Mr. Helge: Is the court saying that that prevents myself from moving for discovery against the state?

The Court: My current thinking is that any discovery by defendants would be stayed until November 26th, which is a Monday.

Mr. Helge: May I address that for a moment, please?

The Court: Go ahead.

Mr. Helge: As a practical matter here, your Honor, you know I have been accused again in the complaint of pilfering millions. I am a defendant. I am a victim. Charges have been brought against me in a very, very vague fashion, your Honor. They have said that I have stolen money. Now, your Honor, I have come in on a summary judgment and denied those matters. The state has come forth with nothing under oath. Now, your Honor, if I am going to respond, how can I possibly respond to that unless I come in and lay out my entire life to show that at no time in my life, my twenty-five years in serving the church have I ever stolen millions.

The Court: Mr. Helge, excuse me for cutting you short, but I just don't think it's going to be a profitable discussion. I would say that any defendant who makes discovery here would be in a position to ask the court to reconsider the order as it might relate to him. I haven't seen any defendant make any discovery yet in this case, and that really is the basis of my thinking, and I appreciate the fact that it may seem arbitrary but I do, I do make that order at this time.

[34] Mr. Helge: Your Honor don't we have to look at the law? Does not there have to be annoyance, oppres-

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sion and embarrassment? I have no facts against me to say I have annoyed or oppressed or embarrassed the Attorney General, save of bringing out facts that are wrongful conduct. What good cause is there of record to prevent me from under the law as it stands to come forth under even the fundamental concepts of due process to show my innocence. Why am I being deprived of that right? What facts are there of record?

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Excerpts From Hearing on Continuation of Defendants' Discovery

REPORTER'S TRANSCRIPT

November 26, 1979

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The Court: Yes, those are the Bunner documents. The plaintiff's motion with respect to the Cornwall and Rader for production of documents and what not are then what?

Mr. Brainard: You ruled on those on the twenty-first of September, your Honor.

The Court: But, in effect, they are stayed pending or are they?

Mr. Cordi: No, they are not. The only thing that is stayed is Rader's deposition.

The Court: The file is in disarray as you can tell at this moment. I have not been able to locate the copies of the original minute order.

Mr. Browne: One point, as far as Mr. Rader is required to produce any documents at his deposition, since the deposition was stayed by the Ninth Circuit, it would be our contention that his not being required to appear, would also stay the requirement of his producing any documents until the deposition is resumed, but, I suppose, that's an interpretation the Ninth Circuit will have to deal with.

The Court: I would think so.

Mr. Brainard: Your Honor, the defendants have complied with none of the discovery orders.

The Court: All right, I hadn't seen any flags or rockets, I didn't think that anything else had happened. [7] All right, gentlemen, I am clear on what the situation is and, well, then, the only matter that's really pending at this

time is the matter that is under submission, which has to do with the seven thousand documents.

Mr. Browne: The only other point, your Honor is whether the court today is going to continue its stay of all the defendants' discovery.

Mr. Brainard: Yes, your Honor, the stay order of today was the day the stay order was to run out.

The Court: I don't see any reason not to continue that until we have some further information about what direction we are going to get, if any, from the federal side.

Mr. Browne: The only other thing I would request, your Honor, it is true that Mr. Helge served a set of interrogatories on the Attorney General, and I would feel much more comfortable if your Honor could allow Mr. Helge to argue that matter. He feels passionately about his cause and I don't want to take away any of the thunder that he may have there so as an accommodation—

The Court: What an unfortunate expression but how apt. I certainly feel that in view of the impasse on discovery, it would be unlikely that I would not continue the stay. I know Mr. Helge likes to have his day in court on this.

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Appendix Z-1

Declaration of Hillel Chodos

I, Hillel Chodos, hereby declare as follows:

1. I am one of the attorneys for the People of the State of California, plaintiff in the within action. I make this declaration in support of an application for an award of attorneys' fees to be paid to me and the other private counsel who have represented the People in this matter, out of the funds of the charitable corporations for whose benefit this action was commenced.

2. I was admitted to the California Bar in January of 1962, and am currently admitted to practice in the California courts and in various federal courts, including the Supreme Court of the United States. My practice has always consisted principally of complex and unusual litigation in both state and federal courts, at both the trial and appellate levels.

3. Most of the matters that I handle are business controversies, usually involving amounts of several million dollars.

4. While I occasionally handle matters on a contingency-fee basis, most of my professional activities are regularly billed and paid for by my clients on a monthly fee-for-service basis, based on time spent. In this regard, although I have always refrained from maintaining daily time records, my customary fee agreement is that I will be paid for my time at $200.00 per hour; and I am currently receiving fees on that basis from numerous clients. In this regard, I have explained to each of my clients that, while I

do not maintain daily time records, I regularly compute the time spent at the end of each month, based on a review of my calendar and my file, and my recollection of what was done and what time I spent. In each instance, my arrangement with my clients is that the transmission and payment of a bill at the end of any month will constitute an account stated between us for all services rendered through the closing date of the billing.

5. In the summer of 1978, I was contacted by Peter S. Pearlman, Esq., a partner in the New Jersey law firm of Cohen & Lifland. Although Mr. Pearlman and I had never met, we have become acquainted professionally through our mutual involvement in certain stockholder class actions arising out of an attempt by Bourns, Inc. (a California corporation) to squeeze out its public shareholders at a price per share substantially below book value.

6. Mr. Pearlman told me that he had been contacted by several members of the Worldwide Church of God resident in New Jersey who had information indicating a substantial likelihood of gross malfeasance and misfeasance on the part of officials of the Worldwide Church of God, Inc. and its related entities. He inquired whether I would be willing to file a California lawsuit based on this information. I told Mr. Pearlman I would look into it, and get back to him.

7. For several months, the press of other matters I was handling was such as to prevent me from devoting more than a few hours to Mr. Pearlman's inquiry. I did ascertain, however, that individual church members, even though they may have been very large contributors, did not have

standing individually to bring or maintain actions based on mismanagement of charitable funds. On the contrary, under established principles of California law, their sole remedy would be to bring their charges to the attention of the Attorney General in his official capacity as a representative of the State in its role as parens patriae, and persuade the Attorney General to take such action (or authorize them and me to take such action in the name and on behalf of the People as might be warranted. I therefore contacted Lawrence R. Tapper, Esq., the Deputy Attorney General handling charitable trust enforcement litigation in Southern California. I had had conversations with Mr. Tapper on various occasions over the years because many of the lawsuits that I handled involved the interests of charitable trusts or foundations under his supervision. Mr. Tapper told me that, before the Attorney General could make any determination what action, if any, to take in the matter, it would be necessary for a complete summary of the claims of improper trust management to be organized and presented to the Attorney General's office. Mr. Tapper sent me a copy of the provisions of the Administrative Code relating to applications for "leave to sue," and the granting of relator status.

8. After additional conversations with Mr. Pearlman and Mr. Tapper, I undertook to meet and to speak with various Church members claiming to have information concerning improper management of charitable trust funds and assets by the persons in charge of the Worldwide Church of God and its associate corporations, including particularly Messrs. Herbert W. Armstrong and Stanley R. Rader. These people furnished me information showing, among

other things, that the Church and its associated corporations had assets in the vicinity of $80,000,000; that they had annual receipts in the vicinity of $70,000,000; and that they were represented by counsel and controlled a large and tightly-knit organization. The persons who agreed to serve as relators or declarants in support of an application to the Attorney General, or an ultimate application to the courts, advised me that they simply did not have the means even to advance—let alone to pay for—the legal services that I told them would probably be required in order to have proceedings instituted to review and correct any mismanagement of charitable funds by the persons in charge of the Church and its associated companies.

9. Ultimately, I became convinced that the information and evidence in the hands of my informants were adequate to justify a formal presentation to the Attorney General, and thereafter to justify the granting of appropriate relief by the courts. I therefore discussed the matter again with Mr. Tapper, summarizing for him the information I had received. Copies of much of the documentary material were furnished to Mr. Tapper for his perusal.

10. Mr. Tapper and I then discussed what procedures would be appropriate in order to bring the alleged improprieties to the attention of the Court, and what relief should be sought. After considerable discussion and review of the pertinent authorities, I suggested to Mr. Tapper that the most appropriate procedure would be to sue to compel the charitable corporations to render an independent and reliable accounting of their affairs in recent years, since no such accounting had ever been rendered,

and since the Attorney General and the courts were entitled to such an accounting as a matter of right. We further discussed that, in view of the fact that the Church and its associated corporations had never actually been governed by an independent board of directors or trustees, it would be necessary to seek a judgment directing that a proper board of directors or trustees be selected to oversee the management of the financial affairs of the Church and its related corporations in the future. Further, as remedies ancillary to the request for accounting, Mr. Tapper and I discussed that the Court should be asked to appoint a receiver *pendente lite* to serve, in effect, as a substitute trustee for the purpose of obtaining the accounting, and that suitable powers should be sought for the receiver, and suitable injunctions obtained, in order to permit him to conduct whatever activities were necessary in order to preserve and protect the assets and obtain the requisite accounting. Finally, we discussed the fact that *ex parte* relief would have to be requested without notice, because of what appeared to us to be a substantial risk that assets would be taken and records would be removed, altered, or destroyed by the defendants if advance notice were given.

11. Among other things, Mr. Tapper and I discussed the fact that the Attorney General had limited staff and resources available with which to discharge his statutory and legal responsibility of supervising charitable and non-profit corporations. In essence, Mr. Tapper explained to me that there were five deputies available to supervise approximately 50,000 non-profit corporations, including but not limited to churches, hospitals, educational institutions, and foundations. Mr. Tapper told me that the Attorney Gen-

eral simply did not have the legal or accounting staff available to conduct an accounting at public expense through the medium of adversary litigation procedures of an organization as large and ramified as the Worldwide Church of God and its associated corporations. He therefore explained to me that it would be a condition of the Attorney General's decision to pursue the matter that I would undertake to furnish all legal services required in order to file the lawsuit, obtain the appointment of a receiver *pendente lite,* and protect any order granting a receivership from attack in the appellate courts or the federal courts; and upon my further undertaking that I would look only to an award from the Court out of the funds and assets of the Church and its associated corporations for compensation. As further conditions, Mr. Tapper told me that I would have to comply with all applicable provisions of Title 11 of the Administrative Code, including particularly:

(a) That I would have to prepare and present, for review and ultimate signature by the Attorney General, a complete set of proposed pleadings, including any papers required in order to obtain provisional relief; and

(b) That I file the $500.00 bond required by the regulations.

12. Mr. Tapper indicated that, if these conditions were satisfied, and if the filing and maintenance of the suit were approved by the Attorney General's office, I would have to bear the brunt of all court proceedings pertaining to the establishment and maintenance of the receivership, although he contemplated that he might participate in and

attend such proceedings as his own schedule and other official commitments would permit.

13. I am and always have been a sole practitioner. I have no law partners, and I do not have and have never had any lawyers or law clerks in my employ. At the time of my discussions with Mr. Tapper, my time was heavily committed to other litigated matters in the trial and appellate courts. I recognized that, while Mr. Pearlman and his firm were performing essential services in collecting and transmitting to me essential information necessary for the litigation through their informants in New Jersey, they would not be able to provide meaningful assistance in the preparation of court papers and the handling of court hearings in the California courts. I therefore solicited the assistance and cooperation of two younger lawyers: Hugh John Gibson, Esq., who rents an office in the suite which I occupy; and Rafael Chodos, Esq., my younger brother, who was admitted to the Bar about eighteen months ago, and who rents an office from another lawyer in my building, in a suite adjacent to mine. Neither Mr. Gibson nor my brother Rafael is associated or connected with me in the practice of law in any way. They did agree, however, to assist me in this particular matter on the understanding that they, like me, would look exclusively to the Court to award them compensation for their services out of the charitable fund for whose protection the receivership was to be sought and maintained.

14. During the month of December, Messrs. Gibson, Rafael Chodos, and I spent many hours reviewing documents furnished by the proposed relators, interviewing witnesses,

and drafting and preparing the complaint and the *ex parte* application for temporary receivership, temporary restraining order, and injunctive relief, which were ultimately filed with this Court on January 2. During the same period, we also conferred and consulted with Messrs. Pearlman and Hermann in order to obtain such information as they had collected from their information sources.

15. The pleadings were ultimately put in final form by December 28, 1978. On December 29, 1978, Mr. Gibson and I met with Mr. Tapper at his office on Wilshire Blvd. to submit multiple copies of the proposed pleadings for his review and approval. At the same time, I also supplied to the Attorney General a $500 cashier's check (the funds for which I personally supplied) in lieu of the cost bond required of relators under Title 11 of the Administrative Code. Mr. Gibson and I spent most of the morning explaining and discussing the papers with Mr. Tapper. He then requested that we leave the papers with him so that he could consider them further, and discuss them with other persons in the office of the Attorney General. Ultimately, Mr. Tapper advised me that the Attorney General would approve the filing of the action and grant formal leave to sue; but by that time, it was too late in the day to file the papers or to seek the *ex parte* orders. Accordingly, a determination was made to postpone the filing of the action until the next available court day, January 2, 1979.

16. On the morning of January 2, 1979, I contacted the Clerk in Department 85, indicating that I intended to appear later that day to seek an *ex parte* receivership, temporary restraining order, and order to show cause re

preliminary injunction. I explained to the Clerk that the circumstances were such that I did not intend to give any notice whatever to the proposed defendants, because I feared that the giving of such notice would cause irreparable injury. The Clerk then put me through to Judge Pacht, who had just been assigned to the Writs and Receivers Department from the Appellate Department. I was and am acquainted with Judge Pacht through various professional contacts I have had with him over the years. I spoke to Judge Pacht for less than two minutes, explaining the general nature of my proposed request, and indicating that I wished to obtain *ex parte* orders without giving notice to the defendants. Judge Pacht told me that he would be available to consider the request at 2:00 p.m., and then inquired whether the moving papers were voluminous. When I told him they were quite lengthy, he requested that I send a copy down by messenger that morning, so that he would have a chance to review them before I arrived; I complied with this request.

17. Meanwhile, I had made certain tentative inquiries of the Honorable Steven S. Weisman, a retired judge of the Superior Court, asking whether he would be willing to serve as a receiver if the Court were to appoint him. I outlined the general nature of the allegations and what I believed the task of the receiver would be. Judge Weisman told me that he would probably be willing to serve as receiver. At the same time that I furnished copies of the proposed pleadings to Mr. Tapper, I also furnished Judge Weisman with a complete set, so that he would have an opportunity to familiarize himself with all of the allegations and with the proposed receivership order. After

learning from Mr. Tapper on December 29 that the Attorney General would approve the filing of the lawsuit in the name and on behalf of the people, I notified Judge Weisman and requested that he accompany Mr. Tapper and me to court when the action was filed and the *ex parte* application presented. On the morning of January 2, I called Judge Weisman again, and arranged for him to come to Department 85 with me and Mr. Tapper at 2:00 p.m.

18. On the afternoon of January 2, the *ex parte* application was presented to Judge Pacht, the action was filed, Judge Weisman was appointed as receiver, and he qualified by signing the oath and filing his bond.

19. Judge Weisman does not employ any lawyers or other staff, except a part-time secretary. In order to discharge his duties as receiver, he appointed me and Messrs. Gibson and Rafael Chodos to assist him in collecting documents which he had been ordered to take into his possession. On the morning of January 3, Mr. Gibson and I, accompanied by an agent from the Department of Justice, went to the offices of Rader, Cornwall, Kessler & Palazzo and Worldwide Advertising in Century City. Copies of the summons and complaint were served on Mr. Kessler, and arrangements were made to have several file drawers of accounting records in his possession and relating to the charitable corporations copied by Beverly Hills Blueprint. Service was also made on Worldwide Advertising, and Mr. Gibson collected certain documents pertaining to the affairs of the charitable corporations (including executive payroll) from those offices.

20. Meanwhile, Judge Weisman and Rafael Chodos had gone to the offices of the charitable corporations in Pasadena, accompanied by other agents of the Department of Justice, in an attempt to take possession of records in accordance with the order. I joined them in Pasadena later in the day. Considerable difficulties were encountered in collecting these records, which occasioned further attendance by Mr. Chodos, Mr. Gibson, and myself at the Pasadena offices on January 3 and January 4. Ultimately, Judge Weisman employed Michael J. Clemens, Esq. to assist him, and Mr. Gibson, Rafael Chodos, and I did not undertake to provide any further assistance to the receiver.

21. On January 4, I was notified that the defendants had employed Allan Browne and Ervin, Cohen & Jessup to represent them in this matter. The first adversary court appearance took place on the afternoon of January 4, when Mr. Browne presented an *ex parte* application to vacate the receivership, and filed a peremptory challenge to Judge Pacht. Since that time, there have been numerous court hearings and court proceedings had in this matter, all as reflected in the Court's file.

22. Mr. Gibson and Rafael Chodos continued to assist me in preparing for and conducting the three-day hearing which took place before Judge Title in Department 3 on January 10, 11, and 12; and they also provided some assistance with matters occurring after that hearing. By and large, however I have personally handled most litigation matters associated with this lawsuit since January 2. I have personally attended virtually every court hearing and responded to virtually motion and *ex parte* application for

relief made by defendants in this case. I have personally drafted and prepared every court paper filed by plaintiff in this action.

23. In addition, I have personally prepared all papers filed on behalf of the People in the Court of Appeal, successfully defending against the defendants' applications for prerogative writs and stay orders. Finally, although I consider myself disqualified from appearing in the Supreme Court of the State of California (because I am a member of the Commission of Judicial Performance, which has undertaken to investigate various charges of misconduct recently asserted against members of that Court), I consulted extensively with Mr. Tapper concerning the content of papers to be filed in the Supreme Court in opposition to the defendants' petition for hearing and request for stay.

24. In addition, I personally prepared and conducted the defense of the State of California in a federal suit filed by the defendants in Los Angeles to terminate the receivership. I personally appeared in court and argued the matter before Judge Firth, and drafted every responsive paper except one motion to dismiss, which was drafted by lawyers from the Tort Section of the Attorney General's office (in view of the fact that the defendants' federal suit also sought $700,000,000 in damages against Messrs. Younger, Deukmejian, and Tapper).

25. Finally, after a federal suit was filed by Church members in Texas (acting, in my opinion, under the direction of defendants Armstrong and Rader), I spent considerable time in locating and retaining Texas counsel to

investigate and deal with the matter; in reporting to the Superior Court and in obtaining an order from the Superior Court directing that any response be made or directed by me (and Texas counsel of my selection) on behalf of the State of California; and in consulting with Texas counsel about how to deal with the Texas federal suit.

26. In addition to the foregoing matters, I also successfully opposed an application for leave to intervene in this action by Church members, which application for leave to intervene was denied by Judge Weil on February 20.

27. In addition to court hearings and court papers, as above set forth, I have also spent enormous amounts of time in telephone conversations and meetings with opposing counsel, with the receiver and his lawyers, with Mr. Tapper, and with Church members and employees wishing to provide me with information pertinent to the maintenance and prosecution of the suit.

28. Because of the pace at which this litigation and the associated federal and appellate proceedings have been conducted, I have not yet had a full opportunity to prepare a detailed statement of my activities, the time spent in connection with them, or the costs and expenses I have incurred in this matter. I have, however, commenced such a study and can estimate that my own time to date comes to approximately 375 hours. At my usual rate of $200 per hour, this means that my fees incurred to date are approximately $75,000.

29. In addition to the time above set forth, I estimate that out-of-pocket costs incurred to date by me personally

amount approximately to $2,000. My usual hourly rate of $200 is intended to cover and include all normal overhead costs of my practice and my office. Thus, no additional claim will be made by me for library expense, secretarial time or overtime, the time of my assistant (equivalent to para-legal time billed by most firms at $50 per hour), routine photocopying (as distinct from high-volume, non-recurring photocopy jobs), or routine telephone charges. I do make claim for certain photocopy costs and certain unusual long-distance telephone expense, as well as other unusual out-of-pocket expenses.

30. In addition to my own time and expense, I have been advised by the other lawyers involved in this case that their time spent and expenses incurred to date are approximately as follows:

Hugh John Gibson	$11,000.00
Rafael Chodos	7,800.00
Cohn & Lifland, Peter Pearlman and Jeffrey Herrmann	5,000.00
Potter, Guinn, Minton, Roberts & Ireland and Leonard Davis (Texas counsel)	3,172.50

31. I and all of the other lawyers who are involved in this case are in the process of preparing detailed affidavits setting forth the work done, the time spent, and the costs expended. These will be filed with, and submitted to, the Court in due course in support of this application. It is my intention that these affidavits will include all time and

expenses incurred through March 1, 1979, the day on which the Court presently proposes to terminate the receivership.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 27th day of February, 1979, at Beverly Hills, California.

/s/ HILLEL CHODOS
HILLEL CHODOS

Appendix Z-2

Letter of Attorney General Deukmejian to Honorable William H. "Bill" Ivers (Dated January 31, 1979)

STATE OF CALIFORNIA

OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF JUSTICE
3580 Wilshire Blvd.
Los Angeles, California 90010
(213) 736-2304

January 31, 1979

Honorable William H "Bill" Ivers
Assemblyman, Forty-Second District
State Capitol
Sacramento, California 95814

Dear Bill:

Before addressing myself to some of the specific questions you have asked with regard to the action filed by my predecessor against the Worldwide Church of God, I would like to give you a little background so that you may understand the nature of the action and our duty to pursue it.

Worldwide Church of God, Inc. is a California corporation created under the general nonprofit code, as are Ambassador College and Ambassador International Cultural Foundation. The only legal distinction between the three organizations lies in the nature of their purposes: religious, educational and cultural, respectively. Federal and state tax exemptions were sought and obtained by each of the corporations, and they have for some years received the benefits, which accrue both publicly and privately from such status as well as from their ability to operate as Cal-

ifornia corporations. In the eyes of the law, each is deemed to be a charitable organization, holding its assets in trust for the public good.

In recognition of the public interest in charities, it has been consistently held by the courts that the state, has the duty and obligation to oversee the handling of their assets. In most states, including California, this responsibility falls upon the attorney general.

Accountability and proper disposition of charitable assets are required at all times by all charitable organizations. Moreover, these standards although delicately balanced in the case of religious corporations, nevertheless apply in full force. There are numerous examples of attorney general involvement in such matters as exemplified by *People* v. *Christ Church,* 78 Cal.App.2d 858; *Metropolitan Baptist Church of Richmond, Inc.* v. *Younger,* 48 Cal.App. 3rd 850; *Queen of Angels Hospital and Franciscan Sisters of the Sacred Heart* v. *Younger,* 66 Cal.App.3rd 359; *People* v. *Western Missionary Army.* There are, of course, other cases in which this office has involved itself in the supervision of assets held by religious corporations, many of which were resolved short of trial and appeal. Also, I am sure you must be aware that the United States Supreme Court has carefully delineated in its First Amendment decisions the cases involving church property on the one hand and church doctrine on the other hand.

Turning to the matter now before us, it is important to recognize that the arguments raised by the defendants, both constitutional and otherwise, have received extensive judicial review by three Superior Court judges, four Court of Appeal justices, a United States District Court judge, and are now pending before the California Supreme Court. The record on which Judge Title converted the temporary

receivership which was in place for seven days to a full receivership for the pendency of the litigation, was seven inches thick, consisting not only of declarations but also of documentary evidence and live testimony introduced in the course of a three day trial. In denying the petition for removal of the receivership, the Court of Appeal stated that it had read the record and concluded that the relief sought by petitioners was not justified. Thus, the questions your constituent has raised concerning the sufficiency of evidence of wrongdoing and the appropriateness of our action in seeking and obtaining a receiver have been thoroughly aired and resolved in our favor.

In closing, Bill, let me add that we are constantly mindful of the faith reposed by many in their religious leaders. We also recognize that there are those who would view any legal challenge by the state as an attack on their religious beliefs. Nevertheless, the law imposes an affirmative duty on this office to require trustees of religious organizations to be accountable for all funds and other assets and to not divert them to their own use and enjoyment or to any use other than those authorized to carry out the purpose of the corporation. When, as here, we have evidence of such diversions, we are bound to bring it before the court as the ultimate custodian of all charitable assets. This we have done. The court, in turn, has ordered a receivership as narrowly circumscribed as the circumstances will permit.

I hope this will help in answering your questions and those of your constituents.

Sincerely,

/s/ GEORGE
GEORGE DEUKMEJIAN
Attorney General